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Laws of the territory of New Mexico.

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1884.

ACTS

— OF THE —

LEGISLATIVE ASSEMBLY,

— OF THE —

TERRITORY OF NEW MEXICO,

TWENTY-SIXTH SESSION.

CONVENED AT THE CAPITAL, AT THE CITY OF SANTA FE. ON MON-
DAY, THE 18TH DAY OF FEBRUARY, 1884, AND ADJOURNED
ON THURSDAY, THE 3D DAY OF APRIL, 1884.



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SANTA FE, NEW MEXICO :
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1884.

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In the preparation of the following laws for publication, the text of the original enrolled acts has been scrupulously followed. Any seeming errors, therefore, must be attributed to the originals, and not to the Secretary. Obvious errors affecting the sense have been corrected, so far as practicable, by the insertion of the proper words in brackets.

W. G. RITCH,
Secretary of the Territory.

Santa Fé, June, 1884.



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— 1884 —

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	{ FERDINAND M. RUFF.....	Socorro County.

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LAWS OF NEW MEXICO.

TWENTY-SIXTH SESSION—1884.

CHAPTER I.

HABEAS CORPUS, MANDAMUS, AND PROHIBITION, *Approved*
April 1, 1884.

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Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. Every person imprisoned or otherwise restrained of his liberty, except in the cases in the following section specified, may prosecute a writ of habeas corpus, according to the provisions of this chapter, to obtain relief from such imprisonment or restraint if it proves to be unlawful.

SEC. 2. The following persons are not entitled to prosecute such writ: persons committed or detained by virtue of the final judgment, conviction, or decree of any competent tribunal, or by virtue of an execution issued upon such judgment or decree; but no order of commitment for any alleged contempt, or upon proceedings as for contempt, to enforce the rights or remedies of any party shall be deemed a judgment, conviction or decree within the meaning of this section; nor shall any attachment

or other process issued upon any such order be deemed an execution within the meaning of this section.

SEC. 3. Application for such writ shall be made by petition to any Judge of the Supreme Court or any two Justices of the Peace of the county where the petitioner shall be in jail, signed and verified either by the party for whose relief it is intended, or by some person in his behalf, as follows: to the Supreme or District Court, or to any Judge thereof, being within the district where the prisoner is detained; or, if there is no such officer within such district, or if he is absent, or from any cause is incapable of acting, or has refused to grant such writ, then to some officer having such authority residing in any other district.

SEC. 4. Whenever application for any such writ is made to any officer not residing within the district where the prisoner is detained he shall require proof by the oath of the party applying, or by other sufficient evidence, that there is no officer in such district authorized to grant the writ; or, if there is one, that he is absent or has refused to grant such writ; or, for some cause, to be specially set forth, is incapable of acting, and if such proof is not produced the application shall be denied.

SEC. 5. The petition shall state in substance:

First. That the person in whose behalf the writ is applied for is imprisoned or restrained of his liberty, the officer or person by whom he is so confined or restrained, and the place where, naming both parties if their names are known, or describing them if they are not.

Second. That such person is not committed or detained by virtue of any process, judgment, decree, or execution, specified in the second section of this chapter.

Third. The cause or pretence of such confinement or restraint according to the knowledge or belief of the party verifying the petition.

Fourth. If the confinement or restraint is by virtue of any warrant, or order, or process, a copy thereof shall be annexed, or it shall be averred that by reason of such prisoner being removed or concealed before application, a demand of such copy could not be made, or that such demand was made, and the legal fees therefor tendered to the officer or person having such prisoner in his custody, and that such copy was refused.

Fifth. If the imprisonment is alleged to be illegal, the petition shall state in what the illegality consists.

SEC. 6. Every writ of habeas corpus issued under the pro-

visions of this chapter shall be substantially in the following form:

The Territory of New Mexico to the Sheriff of, etc., or to A. B. "You are hereby commanded to have the body of C. D., by you imprisoned and detained, as it is said, together with the time and cause of such imprisonment and detention, by whatever name the said C. D. shall be called or charged, before E. F., Judge of the District Court, as, etc., (or immediately after the receipt of this writ,) to do and receive what shall then and there be considered concerning the said C. D., and have you then and there this writ.

Witness, etc."

SEC. 7. Such writ of habeas corpus shall not be disobeyed for any defect of form. It is sufficient,

First. If the person having the custody of the prisoner is designated either by his name or office, if he has any, or by his own name, or if both such names are unknown or uncertain, he may be described by any assumed appellation, and any one who may be served with the writ shall be deemed to be the person to whom it is directed, although it is directed to him by a wrong name or description, or to another person.

Second. If the person who is directed to be produced is designated by name, or if his name is uncertain or unknown, he may be described in any other way so as to designate the person intended.

SEC. 8. If any officer herein authorized to grant writs of habeas corpus willfully refuses to grant such writ when legally applied for, he shall forfeit for any such offense, to the party aggrieved, one thousand dollars.

SEC. 9. The person upon whom any such writ is duly served shall state in his return plainly and unequivocally:

First. Whether he has or has not the party in his custody, or control, or under his restraint, and if he has not, whether he has had the party in his custody, or under his control or restraint, at any and what time prior or subsequent to the date of the writ.

Second. If he has the party in his custody, or control, or under his restraint, the authority and true cause of such imprisonment or restraint, setting forth the same at large.

Third. If the party is detained by virtue of any writ, warrant or other written authority, a copy thereof shall be annexed to the return, and the original shall be produced

and exhibited on the return of the writ to the officer before whom the same is returnable.

Fourth. If the person upon whom such writ is served has had the party in his control or custody, or under his restraint, at any time prior or subsequent to the date of the writ, but has transferred such custody or restraint to another, the return shall state particularly to whom, at what time, for what cause, and by what authority such transfer took place. The return shall be signed by the person making the same, and except where such person is a sworn public officer, and makes his return in his official capacity, it shall be verified by oath.

SEC. 10. The person or officer on whom the writ is served shall bring the body of the person in his custody, according to the command of such writ, except in the case of the sickness of such person, as hereinafter provided.

SEC. 11. If the person upon whom such writ is duly served refuses or neglects to obey the same, by producing the party named in such writ, and making a full and explicit return to every such writ within the time required by the provisions of this chapter, and no sufficient excuse is shown for such refusal or neglect, the officer before whom such writ is returnable, upon due proof of the service thereof, shall forthwith issue an attachment against such person, directed to the Sheriff of any county in this Territory, and commanding him forthwith to apprehend such person and to bring him immediately before such officer, and on such person being so brought he shall be committed to close custody in the jail of the county in which such officer is, until he makes return to such writ and complies with any order that may be made by such officer in relation to the person for whose relief such writ was issued.

SEC. 12. If a Sheriff neglects to return such writ the attachment may be directed to any Coroner or other person designated therein, who shall have full power to execute the same, and such Sheriff upon being brought up may be committed to the jail of any county other than his own.

SEC. 13. The officer by whom any such attachment is issued may also at the same time or afterward issue a precept to the Sheriff, or other person to whom such attachment was directed, commanding him to bring forthwith before such officers the party for whose benefit such writ was allowed, who shall thereafter remain in the custody of such Sheriff or person until he is discharged, bailed or remanded, as such officer directs.

SEC. 14. The officer before whom such party is brought on such writ shall immediately after the return thereof, proceed to examine into the facts contained in such return, and into the cause of the confinement, or restraint of such party, whether the same was before commitment for any criminal charge or not.

SEC. 15. If no legal cause is shown for such imprisonment or restraint, or for the continuation thereof, such officer shall discharge such party from the custody or restraint under which he is held.

SEC. 16. The officer shall forthwith remand such party, if it appears that he is detained in custody, either,

First. By virtue of process issued by any court or Judge of the United States in a case where such court or judge has exclusive jurisdiction; or,

Second. By virtue of the final judgment or decree of any competent court, or of any execution issued upon such judgment or decree; or,

Third. For any contempt, specially and plainly charged in the commitment by some court, officer or body having authority to commit for the contempt so charged; and,

Fourth. That the time during which such party may be legally detained has not expired.

SEC. 17. If it appears on the return that the prisoner is in custody by virtue of civil process of any court legally constituted, or issued by an officer in the course of judicial proceedings before him, authorized by law, such prisoner can only be discharged in one of the following cases:

First. When the jurisdiction of such court or officer has been exceeded either as to matter, place, sum or person.

Second. Where, though the original imprisonment was lawful, yet by some act, omission or event which has taken place afterward, the party is entitled to be discharged;

Third. Where the process is defective in some matter of substance required by law rendering such process void;

Fourth. Where the process, though in proper form, has been issued in a case not allowed by law;

Fifth. Where the person having the custody of the prisoner under such process is not the person empowered by law to detain him; or,

Sixth. Where the process is not authorized by any judgment, order or decree of any court, nor by any provision of law.

SEC. 18. But no officer on the return of any habeas corpus can inquire into the legality or justice of any judgment, decree or execution specified in the preceding second section.

SEC. 19. If it appears that the party has been legally committed for any criminal offense, or if he appears, by the testimony offered with the return upon the hearing thereof, to be guilty of such an offense, although the commitment is irregular, the officer before whom such party is brought shall proceed to let such party to bail, if the case be bailable, and good bail is offered, or, if not, shall forthwith remand such party.

SEC. 20. In other cases the party shall be placed in custody of the person legally entitled thereto, or if no one is so entitled, he shall be discharged.

SEC. 21. Until judgment is given upon the action, the officer before whom such party is brought may either commit such party to the custody of the Sheriff of the county in which such officer is, or place him in such care or under such custody as his age and other circumstances require.

SEC. 22. In criminal cases, notice of the time and place at which the writ is made returnable shall be given to the District or County Attorney, if he is within the county; in other cases like notice shall be given to any person interested in continuing the custody or restraint of the party seeking the aid of said writ.

SEC. 23. Persons to whom bail has been denied, or who are confined for failure to give bail, may have the benefit of a writ of habeas corpus for the purpose of being admitted to bail or having the bail reduced, but no court or Judge shall upon habeas corpus review the proceedings or action of a committing magistrate having jurisdiction, except for the purposes mentioned in this section.

SEC. 24. The party brought before any such officer on the return of any writ of habeas corpus, may deny any of the material facts set forth in the return, or allege any fact to show either that his imprisonment or detention is unlawful, or that he is entitled to his discharge, which allegations or denials shall be on oath; and thereupon such officer shall proceed in a summary way to hear such allegations and proofs as are legally produced in support of such imprisonment or detention, or against the same, and to dispose of such party as justice requires.

SEC. 25. Whenever from the sickness or infirmity of

the person directed to be produced by any writ of habeas corpus, such person cannot, without danger, be brought before the officer, before whom the suit is made returnable, the party in whose custody he is may state the fact in his return to the writ, verifying the same by his oath; and if such officer is satisfied of the truth of such allegation and the return is otherwise sufficient, he shall proceed to decide upon such return and to dispose of the matter; and if it appears that the person detained is illegally imprisoned, confined or restrained of his liberty, the officer shall order those having such person in their custody to discharge him forthwith; and if it appears that such person is legally detained, imprisoned and confined, and is not entitled to be bailed, such officer shall dismiss the proceedings.

SEC. 26. Obedience to any order for the discharge of any prisoner granted pursuant to the provisions of this chapter, may be enforced by the officer issuing such writ or granting such order, by attachment, in the same manner as herein provided for a neglect to make a return to a writ of habeas corpus, and the person guilty of such disobedience shall forfeit to the party aggrieved one thousand dollars in addition to any special damages such party may have sustained.

SEC. 27. No person who has been discharged upon a habeas corpus shall be again imprisoned or restrained for the same cause unless indicted therefor, convicted thereof, or committed for want of bail by some court of record having jurisdiction of the cause; or unless after a discharge, for a defect of proof or for some material defect in the commitment in a criminal case, he is again arrested on sufficient proof and committed by legal process.

SEC. 28. If any one who has in his custody or under his control a person entitled to a writ of habeas corpus, whether a writ has been issued or not, transfers such prisoner to the custody or places him under the power or control of another person, or conceals him, or changes the place of his confinement, with intent to elude the service of such writ, or to avoid the effect thereof, the person so offending shall forfeit to the party aggrieved thereby the sum of four hundred dollars to be recovered in a civil action.

SEC. 29. Any officer or other person refusing to deliver a copy of any order, warrant, process, or other authority by which he detains any person, to any one who demands such

copy and tenders the fees thereof, shall forfeit two hundred dollars to the person so detained.

SEC. 30. Every writ of habeas corpus may be made returnable at a day certain, or forthwith, as the case may require, and shall be under the seal of the court.

SEC. 31. It can only be served by an elector of this Territory, and the service thereof shall not be deemed complete unless the party serving the same tenders to the person in whose custody the prisoner is, if such person is a Sheriff, Coroner, Constable or Marshal, the fees allowed by law for bringing up such prisoner. The officer granting the writ may, in his discretion, require a bond in a penalty not exceeding one thousand dollars, with sufficient sureties, conditioned that the obligators will pay all costs and expenses of the proceeding, and the reasonable charges of restoring the prisoner to the person from whose custody he was taken, if he is remanded. Such bond shall run to the Sheriff of the county and be filed in the office of the Clerk of the court from which the writ issues.

SEC. 32. Every writ of habeas corpus issued pursuant to this chapter may be served by delivering the same to the person to whom it is directed. If he cannot be found, it may be served by being left at the jail or other place in which the prisoner is confined, with any under officer or other person of proper age having charge for the time of such prisoner.

SEC. 33. If the person on whom the writ ought to be served conceals himself, or refuses admittance to the party attempting to serve the same, it may be served by affixing the same in some conspicuous place on the outside either of his dwelling house or of the place where the party is confined.

SEC. 34. If the writ is returnable at a certain day, such return shall be made, and such prisoner produced at the time and place specified therein; if he is returnable forthwith, and the place is within twenty miles of the place of service, such return shall be made and such prisoner produced within twenty-four hours, and the like time shall be allowed for every additional twenty miles.

SEC. 35. Nothing contained in this chapter shall be construed to restrain the power of any court to issue a writ of habeas corpus when necessary to bring before them any prisoner for trial, in any criminal case lawfully pending in the

same court, or to bring any prisoner to be examined as a witness in any action or proceeding, civil or criminal, pending in such court, when they think the personal attendance and examination of the witness necessary for the attainment of justice.

SEC. 36. The Sheriff or person who shall be required to bring up a person on habeas corpus, if the person be held by virtue of any legal process directed to such person as an officer, shall be entitled to the same fees and allowances as are allowed to Sheriffs for removing prisoners in other cases.

WRIT OF MANDAMUS.

SEC. 37. The writ of mandamus is regulated as in this chapter prescribed.

SEC. 38. It may be issued to any inferior tribunal, corporation, board, or person, to compel the performance of an act which the law specially enjoins as a duty resulting from an office, trust and station; but though it may require an inferior tribunal to exercise its judgment, or proceed to the discharge of any of its functions, it cannot control judicial discretion.

SEC. 39. The writ shall not issue in any case where there is a plain, speedy and adequate remedy in the ordinary course of law. It shall issue on the information of the party beneficially interested.

SEC. 40. The writ is either alternative or peremptory. The alternative writ shall state concisely the facts showing the obligation of the defendant to perform the act, and his omission to perform it, and command him, that immediately after the receipt of the writ, or at some other specified time, he do the act required to be performed, or show cause before the court out of which the writ issued, at a specified time and place, why he has not done so; and that he then and there return the writ with his certificate of having done as he is commanded. The peremptory writ shall be in a similar form, except that the words requiring the defendant to show cause why he has not done as commanded shall be omitted.

SEC. 41. When the right to require the performance of the act is clear, and it is apparent that no valid excuse can be given for not performing it, a peremptory mandamus may be allowed in the first instance; in all other cases the alternative writ shall be first issued.

SEC. 42. The court or Judge, by an indorsement on the writ, shall allow the same, designate the return day thereof, and direct the manner of service.

SEC. 43. On the return day of the alternative writ, or such further day as the court allows, the party on whom the writ is served may show cause by answer, made in the same manner as an answer to a complaint in civil action.

SEC. 44. If no answer is made a peremptory mandamus shall be allowed against the defendant; if an answer is made containing new matter, the plaintiff may, on the trial or other proceedings, avail himself of any valid objection to its sufficiency, or may countervail it by evidence either indirect denial or by way of avoidance.

SEC. 45. No other pleading or written allegation is allowed than the writ and answer. They shall be construed and amended in the same manner as pleadings in a civil action, and the issues thereby joined shall be tried and further proceedings had in the same manner as in a civil action.

SEC. 46. If judgment is given for the plaintiff, he shall recover the damages which he has sustained, together with costs and disbursements, and a peremptory mandamus shall be awarded without delay.

SEC. 47. Whenever a peremptory mandamus is directed to a public officer, body or board, commanding the performance of any public duty specially enjoined by law, if it appears to the court that such officer or any member of such body or board, without just excuse, refuses or neglects to perform the duty so enjoined, the court may impose a fine not exceeding two hundred and fifty dollars upon every such officer or member of such body or board; such fine, when collected, shall be paid into the Territorial treasury, and the payment of such fine is a bar to an action for any penalty incurred by such officer, or member of such body or board, by reason of his refusal or neglect to perform the duty so enjoined.

SEC. 48. The District Court has exclusive, original jurisdiction in all cases of mandamus, except where such writ is to be directed to a District Court or a Judge thereof in his official capacity, in which case the Supreme Court has exclusive, original jurisdiction, and in such case the Supreme Court or a Judge thereof shall first make a rule, returnable in turn, that such District Court or judge thereof, show cause before the court why a peremptory writ of mandamus should not issue, and

upon the return day of such rule such District Court or Judge may show cause against the rule by affidavit or record evidence, and upon the hearing thereof the Supreme Court shall award a peremptory writ or dismiss the rule. In case of emergency, a Judge of the Supreme Court, at the time of making the rule to show cause, may also appoint a special term of the court for hearing the motion, and at which the rule shall be made returnable.

SEC. 49. An appeal lies in the Supreme Court from the District Court in mandamus as in civil actions.

SEC. 50. For the purpose of having [hearing] application, for and issuing writs of mandamus, the District Courts shall be regarded as open at all times, wherever the Judge of such court may be within the Territory.

WRITS OF PROHIBITION.

SEC. 51. Writs of prohibition shall only be issued out of the Supreme Court, and shall be applied for upon affidavit, by motion to the court or a Judge thereof in vacation, and if the cause shown appears to the court or Judge to be sufficient a writ shall be thereupon issued, which shall command the court and party, or officer to whom it is directed, to desist and refrain from any other proceedings in the action or matter specified therein, until the next term of said Supreme Court, or the further order of the court thereon; and to show cause at the next term of said court, or some day to be named in the same term at the option of the court, if issued in term trial, why they should not be absolutely restrained from any further proceedings in such action or matter.

SEC. 52. Such writ shall be served upon the court and party or officer to whom it is directed, in the same manner as a writ of mandamus, and a return shall be made thereto by such court or officer, which may be enforced by attachment.

SEC. 53. If the party to whom such writ is directed shall, by an instrument in writing, to be signed by him and annexed to such return, adopt the same return, and rely upon the matters therein contained as sufficient cause why such court should not be restrained, as mentioned in said writ, such party shall thenceforth be deemed the defendant in such proceeding, and the person prosecuting such writ, may take issue or demur to the matters so relied upon by such defendant.

SEC. 54. If the party to whom such writ is directed, shall

not adopt such return, the party prosecuting such writ, shall bring on the argument of such return, as upon a rule to show cause; and he may, by his own affidavit and other proofs controvert the matter set forth in such return.

SEC. 55. The court, after hearing the proofs and allegations of the parties, shall render judgment either that a prohibition absolute restraining the said court and party, or officer, from proceeding in such action or matter, do issue, or a writ of consultation authorizing the court and party, or officer, to proceed in the action or matter in question, and may make and enforce such order in relation to costs and charges and the amount thereof as may be deemed just.

SEC. 56. If the party to whom such first writ of prohibition is directed adopts the return of the court thereto, and judgment is rendered for the party prosecuting such writ, a prohibition absolute shall be issued, but if judgment is given against such party, a writ of consultation shall be issued as above provided.

SEC. 57. All laws and parts of laws in conflict with this act, and all laws on the subjects treated in this act are hereby repealed, and this act shall be in force from its passage.

CHAPTER II.

AN ACT RELATIVE TO SUITS BEGUN BY ATTACHMENT. *Approved*
April 3, 1884.

CONTENTS.

SECTION 1. Proceedings in cases begun by attachment.

SEC. 2. Writ, how returnable. Proceedings on trial

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. That in all cases commenced by attachment issued on a demand or demands not yet due, it shall be sufficient for the plaintiff to file in the office of the Clerk of the District Court an affidavit and bond as now required by law, but he shall not file in such office his petition or declaration until after said demand or demands shall become due. If such

demand or demands become due during a term of the court from which the attachment issued, said plaintiff shall file his declaration within such reasonable time thereafter as may be fixed by the court; and if said demand or demands become due at any time when the court from which the attachment issued is not in session, said plaintiff shall file his declaration within twenty days after the last of such demands shall become due unless the Judge of said court shall for good cause shown enlarge said time, and after the declaration is filed as hereinbefore provided, the suit shall proceed the same as in ordinary cases.

SEC. 2. At the term to which any writ of attachment issued upon a demand not yet due shall be made returnable, the defendant shall be required to appear generally in the case, and he may put in his answer, without oath, denying the truth of any material fact contained in the affidavit to which the plaintiff may reply, and thereupon a trial of the truth of the affidavit shall be had in the manner now provided by law. If upon such trial the issue is found in favor of the defendant, the attachment shall be dissolved, but such dissolution shall not abate the suit, and the defendant shall be held to be in court so that he may be ruled to plead to the plaintiff's declaration when the same is filed in the manner, and within the time hereinbefore provided.

SEC. 3. That all laws and parts of laws in conflict with the provisions of this act are hereby repealed, and that this act shall be in force and effect from and after its passage.

CHAPTER III.

AN ACT AMENDATORY OF THE LAWS RELATING TO ATTACHMENTS. *Approved March 29, 1884.*

CONTENTS.

SECTION 1. Jurisdiction begins, when. Proceedings if defendant dies.

SEC. 2. Additional security may be required, when.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. From the time of the issuing of the order of

attachment, the court shall be deemed to have acquired jurisdiction and to have control of all subsequent proceedings in relation thereto; and if after the issuing of the order, the defendant being a person, should die, or a corporation, and its charter should expire by limitation, forfeiture or otherwise, the proceedings shall be carried on, but in all such cases other than where the defendant was a foreign corporation, his legal representatives shall be made parties to the action.

SEC. 2. The defendant may at any time before judgments after reasonable notice to the plaintiff, move the court for additional security on the part of the plaintiff, and if on such motion the court is satisfied that the surety in the plaintiff's undertaking has removed from this Territory, or is not sufficient for the amount thereof, it may vacate the order of attachment and direct restitution of any property taken under it, unless in a reasonable time to be fixed by court, sufficient security is given by the plaintiff.

SEC. 3. All acts and parts of acts in conflict herewith are hereby repealed. This act shall take effect from the time of its passage.

CHAPTER IV.

AN ACT TO AMEND THE LAW OF FORCIBLE ENTRY AND DETAINER, *Approved March 13, 1884.*

CONTENTS.

SECTION 1. Land not to be deemed abandoned, when. Exception.

SEC. 2. Appeals. Damages, how assessed.

SEC. 3. Bonds on appeals.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. Any person who may be lawfully and peaceably in the possession of any land, and shall have cultivated, occu-

pied or used the same, or any part thereof, in any one year, shall not be deemed or held, to have abandoned the same when absent therefrom, unless he fails to re-enter the same in good faith on or before the fifteenth day of April next following the last year in which he cultivated, occupied or used the same, unto the purpose of occupying, cultivating or using the same or some part thereof from year to year; and any person who may make an adverse entry to him during such time, (except lessors after the expiration of their term and persons whose permission he has to use, occupy or cultivate the same or any part thereof, and after such permission expires,) shall be deemed guilty of forcible entry and unlawful detainer and subject to the laws governing the same.

SEC. 2. On appeals being taken to the District Court, in any action of forcible entry and unlawful detainer, if the plaintiff recovers judgment the damages assessed shall be the actual value of the rents due up to the rendition of judgment by the Justice of the Peace, and double the value of all rents accrued, after the rendition of judgment by the Justice of the Peace, and up to the rendition of judgment in the District Court, and if an appeal be afterwards taken therefrom to the Supreme Court, and judgment for plaintiff be there affirmed, said plaintiff shall have the right to recover further damages at double the actual value of the rents of the property from the time of the rendition of judgment in the District Court to the time of the delivery of possession to him, and shall have the right to sue for the same on the appeal or supercedies bond given in the District Court, which shall be fixed at a sum sufficient to cover such last mentioned damages, as also all damages and judgments rendered in the District Court, which said bond shall contain a condition that the defendant appealing or taking a writ of error will pay all such judgment and damages if the judgment of the District Court be affirmed.

SEC. 3. On appeals taken from a judgment of a Justice of the Peace, the bond shall be in sufficient sum to cover all damages and judgment recovered in the Justice of the Peace court, as also all damages and judgment that may be rendered and recovered in the District Court. And the District Court may, on motion, require an additional bond to [be given] govern in any such case, and should the appellant fail to give such bond when required by the District Court, within the time that may be required, then the said appeal shall be dismissed and the

judgment below affirmed, and additional damages in accordance with this act, assessed, and judgment, execution, and a writ of possession then given by the District Court.

SEC. 4. This act shall take effect and be in force from and after its passage.

CHAPTER V.

AN ACT RELATING TO THE ABATEMENT AND REVIVOR OF ACTIONS. *Approved March 31, 1884.*

CONTENTS.

- SECTION 1. Additional causes of action which survive.
- SEC. 2. Actions pending shall not abate. Exceptions.
- SEC. 3. Proceedings when one plaintiff or defendant dies.
- SEC. 4. Proceedings in discretion of court.
- SEC. 5. Action may be revived after death of party, when.
- SEC. 6. Revivor shall be made, how.
- SEC. 7. Order shall be made, how.
- SEC. 8. Action stands revived, when.
- SEC. 9. When notice shall be given by publication.
- SEC. 10. In whose name revived upon death of plaintiff.
- SEC. 11-12. Upon death of defendant.
- SEC. 13-14. Limitation of revivor except by consent.
- SEC. 15. To be stricken from docket, when.
- SEC. 16. Order to strike from docket granted, when.
- SEC. 17. Trial not to be postponed, when.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. In addition to the causes of action which survive at common law, causes of action for mesne profits, or for an injury to real or personal estate, or for any deceit or fraud, shall also survive, and the action may be brought, notwithstanding the death of the person entitled or liable to the same.

SEC. 2. No action pending in any court shall abate by the death of either or both the parties thereto, except an action for libel, slander, malicious prosecution, assault, or assault and battery, for a nuisance, or against a Justice of the Peace for

misconduct in office, which shall abate by the death of the defendant.

SEC. 3. Where there are several plaintiffs or defendants in an action, and one of them dies, or his power as a personal representative cease, if the right of action survives to or against the remaining parties, the action may proceed, the death of the party or the cessation of his powers being stated on the record.

SEC. 4. Where one of several plaintiffs or defendants dies, or his power as a personal representative cease, if the cause of action do not admit of survivorship, and the court is of opinion that the merits of controversy can be properly determined, and the principles applicable to the case fully settled, it may proceed to try the same as between the remaining parties, but the judgment shall not prejudice any who were not parties at the time of the trial.

SEC. 5. When one of the parties to an action dies, or his powers as a personal representative cease before the judgment, if the right of action survive in favor or against his representative or successor, the action may be revived and proceed in their names.

SEC. 6. The revivor shall be by a conditional order of the court, if made in term, or by a judge thereof, if in vacation, that the action be revived in the names of the representatives or successor of the party who died, or whose powers ceased, and proceed in favor or against them.

SEC. 7. The order may be made on the motion of the adverse party, or of the representatives or successor of the party who died, or whose powers cease, suggesting his death, or the cessation of his powers, which with the names and capacities of his representatives or successors, shall be stated in the order.

SEC. 8. If the order is made by consent of the parties, the action shall forthwith stand revived; and if not made by consent, the order shall be served in the same manner, and returned within the same time as a summons upon the party adverse to the one making the motion, and if sufficient cause be not shown against the revivor, the action shall stand revived.

SEC. 9. When the plaintiff shall make an affidavit that the representatives of the defendant, or any of them, in whose name the action may be ordered to be revived, are non-residents of the Territory, or have left the same to avoid the service of the order, or so concealed themselves that the order

cannot be served upon them, or that the names and residence of the heirs or devisees of the person against whom the action may be ordered to be revived, or some of them are unknown to the affiant, a notice may be published for four consecutive weeks in some newspaper published in the county, notifying them to appear on a day therein named and show cause why the action should not be revived against them; and if sufficient cause be not shown to the contrary, the action shall stand revived.

SEC. 10. Upon the death of the plaintiff in an action, it may be revived in the names of his representatives to whom his rights has passed; where his right has passed to his personal representatives the revivor shall be in his name; where it has passed to his heirs or devisees who could support the action if brought anew, the revivor may be in their names.

SEC. 11. Upon the death of a defendant in action, wherein the right or any part thereof, survives against his personal representatives, the revivor shall be against him, and it may also be against the heirs or devisees of the defendant, or both, when the right of action or any part thereof survives against them.

SEC. 12. Upon the death of a defendant in an action for the recovery of real property only, or which concerns only his rights or claims to such property, the action may be revived against his heirs or devisees, or both; and an order therefor may be forthwith made, in the manner directed in the preceding sections of this act.

SEC. 13. An order to revive an action against the representatives or successor of a defendant, shall not be made without the consent of such representative or successor, unless in one year from the time it could have been first made.

SEC. 14. An order to revive an action in the names of the representatives or successor of a plaintiff may be made forthwith, but shall not be made without the consent of the defendant, after the expiration of one year from the time the order might have been first made; but where the defendant shall also have died, or his power have ceased in the mean time, the order of revivor on both sides may be made in the period limited in the last section.

SEC. 15. When it appears to the court by affidavit that either party to an action has been dead, or where a party sues, or is sued as a personal representative, that his powers have

ceased for a period so long that the action cannot be revived in the names of his representatives or successor, without the consent of both parties, it shall order the action to be stricken from the docket.

SEC. 16. At any term of the court succeeding the death of the plaintiff, while the action remains on the docket, the defendant having given to the plaintiff's proper representative, in whose names the action might be revived, ten days notice of the application therefor may have an order to strike the action from the docket, and for costs against the estate of the plaintiff, unless the action is forthwith revived.

SEC. 17. When, by the provisions of the preceding sections, an action stands revived, the trial thereof shall not be postponed by reason of the revivor, if the action would have stood for trial at the term the revivor is complete, had not death or cessation of powers taken place.

SEC. 18. All acts and parts of acts in conflict herewith are hereby repealed. This act shall take effect and be in force from the time of its passage.

CHAPTER VI.

AN ACT TO DETERMINE AND QUIET THE TITLE OF REAL PROPERTY AND FOR OTHER PURPOSES. *Approved April 2, 1884.*

CONTENTS.

SECTION 1. Who may bring action.

SEC. 2. What bill of complaint shall show.

SEC. 3. Recovery of costs. Decree, how rendered.

SEC. 4. Actions conducted by equitable proceedings in chancery.

SEC. 5. Mines to be deemed real estate.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. An action to determine and quiet the title of real property may be brought by any one having or claiming

an interest therein, whether in or out of possession of the same, against any person claiming title thereto.

SEC. 2. The plaintiff must file his bill of complaint in the District Court, setting forth the nature and extent of his estate, and describing the premises as accurately as may be, and averring that that he is credibly informed and believes that the defendant makes some claim adverse to the estate of the plaintiff, and praying for the establishment of the plaintiff's estate against such adverse claims, and that the defendant be barred and forever estopped from having or claiming any right or title to the premises adverse to the plaintiff, and plaintiff's title thereto be forever quieted and set at rest. Any or all persons who the plaintiff alleges in his bill of complaint he is informed and believes make claim adverse to the estate of plaintiff, the unknown heirs of any deceased person who plaintiff alleges in his bill of complaint in his lifetime made claim adverse to the estate of plaintiff, and all unknown persons who may claim any interest or title adverse to plaintiff, may be made parties defendants to said bill of complaint by their names, as near as the same be ascertained, such unknown heirs by the style of unknown of such deceased person, and said unknown persons who may claim any interest or title adverse to plaintiff by the name and style of unknown claimants of interests in the premises adverse to the plaintiff, and service of process on, and notice of said suit against defendants, shall be made in the same manner as now provided by law in other civil suits.

SEC. 3. If the defendant, or any of them, shall appear and disclaim all right and title adverse to the plaintiff, he shall recover his costs, and in all other cases the costs shall be in the discretion of the court. If the defendant or any one of them fails to appear and answer, the court may render decree against such defendant so failing to appear in accordance with the prayer of the bill of complaint, or such other decree in the premises as to the court shall appear meet and proper.

SEC. 4. The action contemplated by this act shall be conducted as other actions by equitable proceedings on the chancery side of the court.

SEC. 5. For the purposes of this act, and for all other purposes, mines shall be deemed and taken to be real estate.

SEC. 6. This act shall be in full force and effect from and after its passage.

CHAPTER VII.

AN ACT RELATIVE TO PRACTICE IN THE SUPREME COURT *Approved April 3, 1884.*

CONTENTS.

SECTION 1. When records of lower court shall be printed.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. That appellants and plaintiffs in error in any criminal case removed into the Supreme Court of the Territory for review shall not be required to print the record, nor any part thereof; and in civil cases removed into said Supreme Court for review, appellants or plaintiffs in error shall not be required to print the record nor any part thereof, unless the amount of the judgment to be reviewed or the value of the property in dispute shall exceed one thousand dollars, exclusive of costs.

SEC. 2. That all laws and parts of laws in conflict with the provisions of this act are hereby repealed, and that this act shall be in force and effect from and after its passage.

CHAPTER VIII.

AN ACT RELATIVE TO PRACTICE IN THE DISTRICT COURTS. *Approved April 3, 1884.*

CONTENTS.

SECTION 1. Instructions to jury shall be in writing.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. That upon the trial of any case either civil or criminal in the District Courts held within and for the various

counties of the Territory, all instructions to the jury asked by either party, whether given or refused, shall be in writing, and all instructions given by the court at the request of either party or upon its own motion, shall be in writing; and it is hereby made the duty of the court in all cases, whether civil or criminal, to instruct the jury as to the law of the case, and a failure or refusal so to do shall be sufficient ground for a reversal of the judgment by the Supreme Court upon appeal or writ of error; *provided*, however, that the parties to the suit or their attorneys may waive upon the record the instructions in writing.

SEC. 2. That all laws and parts of laws in conflict with the provisions of this act are hereby repealed, and that this act shall be in force and effect from and after its passage.

CHAPTER IX.

AN ACT TO PUNISH THE UNLAWFUL DISPOSAL AND SALE OF MORTGAGED PERSONAL PROPERTY. *Approved March 11, 1884.*

CONTENTS.

SECTION. 1. Penalty for removal or concealment.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. Any person having conveyed to another any personal property by chattel mortgage, or other instrument of writing having the effect of a mortgage or lien upon such property, who, during the existing of such mortgage or lien, shall sell, transfer, conceal, take, drive or carry away, or in any manner dispose of such property or any part thereof, or cause or suffer the same to be done, without the written consent of the holder of such mortgage or lien, shall be guilty of a misdemeanor, and on conviction may be fined in a sum not exceeding twice the value of the property so sold or disposed of, or confined in the county jail not exceeding six months, or both, at the discretion of the court.

SEC. 2. This act shall take effect and be in force from and after its passage.

CHAPTER X.

AN ACT RELATIVE TO PRACTICE IN THE DISTRICT COURT.
Approved April 1, 1884.

CONTENTS.

SECTION 1. Service of process.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. That in all suits brought in any of the District Courts of the Territory of New Mexico, it shall hereafter not be necessary for any purpose whatsoever to serve upon the defendant or defendants in said suit any copy of the declaration, petition, or bill of complaint, filed by plaintiff or complainant.

SEC. 2. That all laws and parts of laws in conflict with the provisions of this act be and the same are hereby repealed, and that this act shall be in effect from and after its passage.

CHAPTER XI.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT CONCERNING EXECUTIONS." *Approved April 3, 1884.*

CONTENTS.

SECTION 1. Real property sold on execution must realize two-thirds of appraised value.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. That section 1 of an act entitled "An act concerning executions," approved February 4, 1857, and printed as section 21 of chapter XXXIV of the compiled laws, be and the same hereby is amended so as to read as follows: Section 21. No real property shall be sold on any execution issued out of any court in any case at law for less than two-thirds

of the appraised cash value thereof, exclusive of liens and encumbrances.

SEC. 2. That all laws and parts of laws in conflict with the provisions of this act are hereby repealed, and that this act shall be in force and effect from and after its passage.

CHAPTER XII.

AN ACT FOR THE TAKING THE DEPOSITIONS OF WITNESSES OUT OF THE TERRITORY. *Approved April 1, 1884.*

CONTENTS.

SECTION 1. When may be taken.

SEC. 2. May be taken how. Notice required.

SEC. 3. Interrogatories, how settled.

SEC. 4. Deposition, how taken and certified.

SEC. 5. Parties may stipulate. what.

SEC. 6. How stipulation may be used and when.

SEC. 7. All testimony to be recorded and signed.

SEC. 8. Trial not to be postponed. Exception.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. The testimony of a witness residing out of the Territory may be taken by deposition in an action at any time after the service of the summons or the appearance of the defendant; and, in a special proceeding, at any time after a question of fact has arisen therein.

SEC. 2. The deposition of a witness out of this Territory may be taken upon commission, issued from under the seal of the clerk of the District Court, on the application of either party, upon five days previous notice, together with a copy of the interrogatories intended to be put to such witness. It must be issued to a person agreed upon by the parties, or if they do not agree, to any judge, justice of the peace, notary public, or commissioner, selected by the officer issuing it.

SEC. 3. Unless the interrogatories to be annexed to the commission are settled by consent of the parties, they must be

settled upon five days notice by the Judge of the District Court.

SEC. 4. The interrogatories, when settled, must be annexed to the commission. The commission must authorize the commissioner to administer an oath to the witness, and take his deposition in answer to the interrogatories, and to certify the deposition to the clerk of the court issuing the same, in a sealed envelope, and forwarded to him by mail or other usual channel of conveyance.

SEC. 5. The parties may stipulate in writing that a commission issue without written interrogatories, and that the deposition be taken upon oral questions; or that a commission issue to take the depositions of one or more witnesses, designated in the stipulation, partly upon oral questions and partly upon written interrogatories; or one or more witnesses to be examined on written interrogatories, and one or more witness[es] upon oral questions.

SEC. 6. On filing a written stipulation, signed by the attorneys for the parties, or by the parties in person, a commission may be issued by the clerk of the District Court, directed to the person named in said stipulation, and when the deposition of a witness is taken in accordance with said stipulation it may be used by either party on the trial in the same manner as if taken out in accordance with section two of this act.

SEC. 7. Upon the examination of a witness without written interrogatories, in accordance with section five of this act, either party, or their attorneys, may attend the examination and put such questions, direct and cross, as may be proper, and the commissioner must take down, or cause to be taken down, all the testimony of the witness, and when completed must be carefully read to the witness and correct[ed] by him in any particular, if desired; it must then be subscribed by the witness and certified by the commissioner.

SEC. 8. A trial or other proceeding must not be postponed by reason of a commission not returned, except upon evidence satisfactory to the court that the testimony of the witness is necessary, and that proper diligence has been used to obtain it.

SEC. 9. All acts or parts of acts in conflict with this act are hereby repealed.

SEC. 10. This act shall take effect and be in force from and after its passage.

CHAPTER XIII.

AN ACT RELATIVE TO TITLES TO REAL ESTATE. *Approved*
April 3, 1884.

CONTENTS.

SECTION 1. Statement of title may be made and recorded, when and how.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. That any person or persons who have acquired and hold any real estate by purchase or otherwise, and have lost or never had any legal evidences of title to such real estate, may make a statement in writing containing a description of such real estate by metes and bounds, or by reference to well known and permanent natural objects as boundaries, and setting forth in detail the manner in which he or they acquired such real estate, how long they and their predecessors in possession have held the same, and showing fully all claim which they have to such real estate, either in law or in equity. Such statement shall be executed and acknowledged in the same manner as conveyances of real estate are required to be executed and acknowledged, and being so executed and acknowledged, may be recorded by the county recorders in the same manner and in the same books that conveyances of real estate are recorded. *Provided*, that no such statement shall be made or recorded after the thirty-first day of December, 1889. Such statement upon being recorded as aforesaid, shall be considered as notice to all the world of the rights and claims of the person making such statement in and to the real estate therein described, and the statute of limitation shall be considered as beginning to run in favor of such person from the date of the recording of such statement.

SEC. 2. That all laws and parts of laws in conflict herewith are hereby repealed, and this act shall be in force from and after its passage.

CHAPTER XIV.

AN ACT TO PROTECT THE PROPERTY RIGHTS OF MARRIED WOMEN. *Approved April 2, 1884.*

CONTENTS.

- SECTION 1. Property held separately after marriage.
SEC. 2. Responsibility for contracts, torts or debts.
SEC. 3. Liabilities of husband and wife.
SEC. 4. When husband or wife may act separately.
SEC. 5. Ante nuptial contracts and settlements not affected.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. All property, real, personal, and mixed, and choses in action, owned by any married woman, or owned or held by any woman at the time of her marriage, shall continue to be her separate property notwithstanding such marriage; and any married woman may, during coverture, receive, take, hold, use, and enjoy property of any and every description, and all avails of her industry, free from any liability of her husband on account of his debts, as fully as if she were unmarried.

SEC. 2. A married woman shall be bound by her contracts, and responsible for torts committed by her, and her property shall be liable for her debts and torts, to the same extent as if she were unmarried. Any married woman shall be capable of making any contract with the consent of her husband, either by parol or under seal, which she might make if unmarried, and shall be bound thereby; except that no conveyance or contract for the sale of real estate or of any interest therein by a married woman, or any mortgages on lands or leases shall be valid, unless her husband shall join with her in such conveyances, save as provided in section five of this chapter. *Provided*, that if her husband is an insane person, she may make such conveyance, mortgage, lease, or contract by joining therein with the guardian of such insane person; and no right to an estate by the courtesy shall attach as against a mortgage given by a married woman to secure the purchase money of the land so mortgaged.

SEC. 3. No married woman shall be liable for any debts of her husband, nor shall any married man be liable for any debts or contracts of his wife, entered into either before or during coverture, except for necessities furnished to the wife after marriage, where he would be liable at common law, but each shall be liable for necessities furnished to the husband or family of the husband and wife. In relation to all subjects either the husband or wife may be constituted the agent or attorney in fact of the other, or contract each with the other as fully as if the relation of husband and wife did not exist. But in all cases where the rights of creditors or purchasers in good faith come in question the husband shall be held to have notice of the contracts and debts of his wife, and the wife shall be held to have notice of the contracts and debts of her husband, as fully as if a party thereto.

SEC. 4. Whenever a married man shall be deserted by his wife, or a married woman shall be deserted by her husband, for the space of one year, or whenever he or she would, for any cause, be entitled to a divorce from such husband or wife under the laws of this Territory, he or she may bring an action in the District Court of the proper county, asking for a decree which shall debar him or her so deserting or furnishing grounds for a divorce, from any right or estate, by the courtesy or in dower, or otherwise, as the case may be, in or to his or her lands, and which will give such husband or wife full authority to alien, sell, and convey, and dispose of his or her lands, without the interference of or signature of the husband or wife so deserting, or being guilty of acts which would entitle the person bringing such action to a divorce; and the court may grant such decree whenever it shall appear just or expedient; and thereupon the husband or wife shall have full control of his or her real estate, with power to convey the same without the husband or wife joining in the conveyance, and as fully as if he or she were unmarried; or the court may by such decree, make such limitations on the power to convey such real estate as may seem meet and proper in the premises. A certified copy of such decree may be recorded in the deed records in the office of the register of deeds of any county wherever such lands, or any part thereof, may be situated, and such record shall be notice to all parties of such decree.

SEC. 5. Nothing in this act shall be construed to affect

ante-nuptial contracts or settlements, not [nor] to exempt a husband from liabilities for torts committed by his wife.

CHAPTER XV.

AN ACT RELATING TO DIVORCE. *Approved April 1, 1884.*

CONTENTS.

SECTION 1. Applicant must prove six months residence

SEC. 2. Service of process by publication may be made, when.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. Hereafter no person shall commence any action for divorce in any court of this Territory unless such person has been a bona fide resident of the Territory for the period of six months. Evidence of such residence, satisfactory to the judge trying the case, shall be required by such judge before granting any judgment of divorce.

SEC. 2. Service of process in actions for divorce, by publication, can only be made after obtaining from a Judge of the Supreme Court an order allowing the same. The affidavit or affidavits on which such order is asked must show the present residence of the defendant, if known, or the last known place of such residence with its date, and the efforts made to ascertain the present residence; and the order shall direct in addition to the publication provided by law in the case of non-resident defendants, that a copy of the summons shall be mailed, postpaid, to the present or last known place of residence of the defendant, and may direct such other means of bringing the action to the knowledge of the defendant as to the judge shall seem proper under the circumstances of any particular case.

SEC. 3. This act shall not affect existing suits, but as to others shall take effect immediately.

CHAPTER XVI.

AN ACT RELATIVE TO CERTAIN DEBTS [AGAINST MINORS FOR LIQUORS AND AGAINST GAMBLING]. *Approved April 2, 1884.*

CONTENTS.

SECTION 1. Credits granted at risk of liquor seller, not collectable by law.

SEC. 2. Penalty for permitting minors to play games.

SEC. 3. Fines divided between county and school fund.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. If any saloon keeper, or his, or their clerks, bartenders, servants or employes, shall trust or credit any minor or minors for any drinks of wine, whiskey, beer, or other spirituous or fermented liquors, it shall be at his or their own risk, and actions at law for the collection of such debts so contracted shall not be maintainable in any court of this Territory.

SEC. 2. Any saloon keeper who shall permit any minor, under the age of twenty-one (21) years, to play the game of billiards, pool, or any game of cards or dice, or any other game on his premises, on conviction thereof before the District Court, or before any justice of the peace, shall be punished by a fine not less than ten dollars, nor more than one hundred dollars.

SEC. 3. All fines imposed under the provisions of this act shall be, one-half for the county fund, and the other half for the school fund, in which the offense is committed.

SEC. 4. All laws or parts of laws in conflict herewith are hereby repealed, and this act shall take effect from and after its passage.

CHAPTER XVII.

AN ACT TO AMEND AN ACT APPROVED JANUARY 2, 1852, IN REFERENCE TO "MECHANIC'S LIENS." *Approved March 21, 1884.*

CONTENTS.

SECTION 1. Lien to protect inn keepers and livery stable keepers.

SEC. 2. Proceedings to enforce lien.

SEC. 3. Property to be advertised and sold, when.

SEC. 4. Proceeds, how applied. Lien claimant may purchase.

SEC. 5. Provisions applicable to landlords and common carriers.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. That section fifteen of an act approved January 2nd, 1852, be amended to read as follows: Inn keepers and livery stable keepers, and those who board others for pay, or furnish feed or shelter for the property and stock of others, shall have a lien on the property and stock of such guest or guests, or of those to whom feed or shelter has been furnished while the same is in their possession, and until the same is paid for.

SEC. 2. That in order to enforce said lien those who are entitled to the same, as provided by this act, may, after the debt for which the lien is claimed becomes due and payable, serve the party or parties, against whom the lien is sought to be enforced, with a written notice, setting forth the amount of the indebtedness, upon what account or cause the same accrued, and that if the same is not paid within ten days after the service of said notice, the property will be advertised and sold to satisfy said indebtedness.

SEC. 3. If default be made in the payment of the debt, after notice, as provided in section two of this act, then it shall be lawful for the lien claimant or creditor, as herein provided, to advertise and sell such property at public auction to the highest bidder for cash after giving twenty days notice of such sale by at least six hand-bills posted up in public places in the county in which such sale is to be made; such notices of sale shall set forth the time and place of sale and a description of the property to be sold.

SEC. 4. After sale made as provided in section three of this act, the proceeds of such sale shall be applied to the payments of the costs of advertising and making the sale and the satisfaction of the demand of the lien claimant, and the residue, if any, shall be refunded to the lien debtor; *Provided*, that the lien claimant shall not be precluded from bidding on or purchasing the property of such sale.

SEC. 5. Landlords and common carriers may proceed in the enforcement of liens now allowed them by law in the manner prescribed in sections two, three, and four of this act.

SEC. 6. All acts and parts of acts inconsistent herewith are hereby repealed, and this act shall take effect and be in force from and after its passage.

CHAPTER XVIII.

AN ACT RELATIVE TO JUDGES OF THE DISTRICT COURTS.
Approved April 3, 1884.

CONTENTS.

SECTION 1. Any judge may perform duties of another, when.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. That when any Judge of any District Court shall be absent from his district, or shall be in any manner incapacitated from performing any of his duties as such Judge, any other District Judge in the Territory may perform any and all such duties for him the same as he might do if present or able to act; *Provided*, that nothing herein contained shall be held to require that such other District Judge must come within the district of the Judge for whom he is acting before he can properly perform such duties as aforesaid.

SEC. 2. That all laws and parts of laws in conflict herewith are hereby repealed, and that this act shall be in effect from and after its passage.

CHAPTER XIX.

AN ACT RELATING TO THE ATTORNEY GENERAL AND DISTRICT ATTORNEYS. *Approved April 1, 1884.*

CONTENTS.

SECTION 1. Governor to nominate and appoint Attorney General.

SEC. 2. Duties defined.

SEC. 3. Salary and additional compensation.

SEC. 4. Additional District Attorney provided for.

SEC. 5. Assistant Attorney General authorized. Duties defined.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SEC. 1. The Governor shall nominate, and, by and with the

advice and consent of the Legislative Council, shall appoint an Attorney General who shall reside and keep his office at the capital of the Territory, and hold his office for two years and until his successor shall be appointed and qualified.

SEC. 2. It shall be the duty of the Attorney General, when requested, to give his opinion in writing upon any question of law submitted to him by the Legislative Assembly or either house thereof, the Governor, Secretary, Auditor, and to any other Territorial officer, and to the several District Attorneys in the Territory. He shall, when requested by the Governor, or any territorial officer, prepare forms for contracts, bonds, and other instruments of writing which may be required for the use of the Territory, and shall, when required, report to the Governor or Legislative Assembly upon any business pertaining to his office. He shall prosecute and defend all causes and proceedings in the Supreme Court in which the Territory is a party or interested, and institute and prosecute all suits and proceedings against delinquent tax collectors and others indebted to the Territory when he may deem it necessary, or when requested by the Auditor. It shall be his duty to attend and take part in the trial and prosecution of any murder or other felony in any District Court of the Territory, upon the direction of the Governor or the request of the Judge of the Court in which said trial may be had, and he may so appear upon the request of the District Attorney having charge of the prosecution.

SEC. 3. The Attorney General shall receive a salary of eighteen hundred dollars per annum, payable monthly out of the territorial treasury on his own warrant, and he shall receive, in addition to his expenses in attending any trial in a District Court, such reasonable compensation as may be allowed him by the court in which such service shall be performed, not exceeding, in any case, the sum of fifty dollars.

SEC. 4. In addition to the District Attorneys for the Second and Third Judicial Districts, they [there] shall be appointed by the Governor, with the advice and consent of the Legislative Council, a District Attorney for the counties of Taos and Rio Arriba, who shall receive the fees and compensation now allowed by law to other District Attorneys.

SEC. 5. In addition to the duties of the Attorney General he shall also be ex-officio District Attorney for the counties of Santa Fe, San Miguel, Mora, and Colfax, and he shall have

power and authority to appoint an assistant who shall hold his office during the time for which he was appointed. It shall be the duty of the said assistant to prosecute all causes in the courts of the said counties of Santa Fe, San Miguel, Mora, and Colfax, and he shall receive the same fees now allowed by law to the District Attorneys in the Territory. He shall act for the Attorney General in his absence, and shall perform all the duties pertaining to said office.

SEC. 6. All laws and part of laws inconsistent with the provisions of this act be and the same are hereby repealed, and this act shall take effect from the date of its passage.

CHAPTER XX.

AN ACT WITH REFERENCE TO THE TERRITORIAL ATTORNEY FOR THE COUNTIES OF TAOS AND RIO ARRIBA. *Approved April 3, 1884.*

CONTENTS.

SECTION 1. Counties of Taos, Rio Arriba, and Colfax constitute a district.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

That the county of Colfax shall be annexed to the district composed of the counties of Taos, and Rio Arriba, and the same Territorial Attorney shall prosecute in all three of said counties.

This act shall be in force and effect from and after its passage.

CHAPTER XXI.

AN ACT DEFINING THE FEES OF THE CLERKS OF THE SUPREME AND DISTRICT COURTS IN THE TERRITORY OF NEW MEXICO. *Approved April 3, 1884.*

CONTENTS.

SECTION 1. Fees to clerk of Supreme Court.

SEC. 2. To clerks of District Courts.

SEC. 3. Costs against Territory or county same as in other cases.

SEC. 4. Costs shall be paid by Territory or county, when.

SEC. 5. No other fees to be charged.

SEC. 6. Limitation as to advance fees.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. That the clerk of the Supreme Court shall be entitled to receive: For entering each cause upon the docket, five dollars; for issuing each writ, one dollar; for taking and approving bond, one dollar; for recording opinions of the court, and for copying any record or paper, ten cents per folio of one hundred words; for attendance at any term of the court, four dollars for each day, to be paid by the Territory; for all other services the same fees as are by law allowed to clerks of the District Courts for like services.

SEC. 2. That clerks of the District Courts shall be entitled to receive: For docketing each cause, whether civil or criminal two dollars, to be paid but once; *Provided*, that when a cause is removed by change of venue from one county to another, or from one district to another, it may be treated as a new case in the county to which it is removed, and a new docket fee of three dollars may be charged, which shall be taxed as part of the costs of the change of venue; for issuing every process or writ of any kind, except a subpoena for a witness, one dollar, *Provided*, that there shall be no additional charge for any endorsements thereon; for copies of process to serve, when required, the same as for originals; for each certificate under seal, fifty cents; for a subpoena for a witness or witnesses, twenty-five cents; for taking and entering at length on the journal or record of the court any recognizance, twenty cents a folio of one hundred words; for entering an order admitting an attorney to practice, and administering oath and issuing certificate to him, five dollars; for entering at length on the journal any motion, rule, order, or judgment, twenty-five cents, unless the same contain more than one folio of one hundred words, in which case the clerk shall receive twenty cents for each folio; for filing any paper, ten cents; for every entry on the docket not herein otherwise provided for, fifteen cents; for computation of amount due on any bond, note, or other writing obligatory, fifty cents; for taking and approving bond, twenty-five cents; for each jury empanelled and sworn, fifty cents; for docketing

judgment on the judgment docket, twenty-five cents; for entering satisfaction of judgment, twenty-five cents; for every additional entry on the judgment docket, fifteen cents; for every entry on the journal of the court not herein otherwise provided for, twenty cents per folio of one hundred words; for every criminal information or indictment and entering same on docket, fifty cents; for making and certifying itemized bill of costs in any case, twenty-five cents for each folio, and fifty cents for certificate thereto under seal; for copies of any records or papers, ten cents per folio; for taking and certifying an acknowledgement, fifty cents, if but one person acknowledges, and twenty-five cents for each additional person; for taking deposition, twenty cents a folio, and three dollars for each day's attendance; for each day's attendance at any term of the court, four dollars, to be paid by the Territory; for naturalization of an alien and certificate thereof, three dollars; for declaration of intention by an alien, and certificate thereof, one dollar; for administering every oath, except to jurors, ten cents; for entering judgment in a criminal case on a plea of guilty, fifty cents; for receiving and filing remittitor or mandate from Supreme Court, one dollar; for certified statement of costs in any case not itemized, fifty cents; for issuing commission to take testimony, one dollar.

SEC. 3. That in all cases in which costs are adjudged against the Territory or any county, they shall be taxed and charged the same as in other cases and no more.

SEC. 4. That in all cases in which the Territory or any county is plaintiff, and the costs are adjudged against the defendant, if execution against defendant is issued and returned *nulla bona*, the costs shall be paid by the plaintiff in the case.

SEC. 5. That no other or different fees than those provided by this act shall be charged or received by clerks of the Supreme and District Courts.

SEC. 6. That the clerks of the District Courts shall not charge or receive more than five dollars as advance fees in any case at law, nor more than ten dollars as advance fees in case in equity; *Provided*, that he may require any plaintiff or complainant to furnish security for costs before issuing process in any case.

SEC. 7. That all laws and parts of laws in conflict with the provisions of this act are hereby repealed, and this act shall be in effect from and after its passage.

CHAPTER XXII.

AN ACT TO FIX THE TIMES OF HOLDING THE DISTRICT COURTS. *Approved March 14, 1884.*

CONTENTS.

SECTION 1. Date of beginning in each county.

SEC. 2. Processes returnable at times stated.

SEC. 3. Repeals act of February 25, 1882.

SEC. 4. Applies to terms of court in progress.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. That the terms of the District Courts shall be held in the several counties of this Territory, beginning at the times hereinafter fixed and continuing until adjourned by order of the court. In the county of Santa Fe, first Mondays of February and July; in the county of San Miguel, the first Mondays of March and August; in the county of Mora, the first Mondays of April and September; in the county of Colfax, the third Mondays of April and September; in the county of Taos, the first Mondays after the fourth Mondays of April and September; in the county of Rio Arriba, the second after the fourth Mondays of April and September; in the county of Socorro, the fourth Monday of March and the third Monday of November; in the county of Valencia, the second Monday after the fourth Monday of March, and the third Monday of November; in the county of Bernalillo, the first Mondays of May and October; in the county of Doña Ana, the first Mondays of March and September; in the county of Lincoln, the second Monday of May and the third Monday of October; in the county of Grant, the fourth Monday of July and the first Monday of December.

SEC. 2. That all warrants, bonds, writs, subpoenas, and other process issued from said court for said counties and made returnable at any other than the above times, are hereby declared to be and are made returnable at the times above provided.

SEC. 3. That the act entitled "An act in relation to the District Court," approved February 25, 1882, and printed as Chapter XI in the session laws of 1882, be, and the same hereby is repealed.

SEC. 4. That the provisions of this act shall apply to any

and all terms of said courts which may be in progress at the time of the passage hereof, as well as at all terms to be thereafter begun.

SEC. 5. That this act shall be in force from and after its passage, and that all acts and parts of acts in conflict herewith are hereby repealed.

CHAPTER XXIII.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO FIX THE TIMES OF HOLDING THE DISTRICT COURTS," APPROVED MARCH 14, 1884. *Approved April 2, 1884.*

CONTENTS.

SECTION 1. Fixes time for District Court of Valencia.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. That section one of an act entitled an act to fix the times of holding the District Courts, approved March 14th, 1884, be amended to read as follows: "In the county of Valencia the first Monday in November."

SEC. 2. All acts and parts of acts in conflict with this act are hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

CHAPTER XXIV.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO FIX THE TIMES OF HOLDING THE DISTRICT COURTS," APPROVED MARCH 14, 1884. *Approved April 2, 1884.*

CONTENTS.

SECTION 1. Date of April term District Court of Valencia.

SEC 2. Process made returnable at stated date.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. That the April term of the District Court within and for the county of Valencia, shall commence on the third Monday after the fourth Monday in March of each year.

SEC. 2. All warrants, bonds, writs, and other process heretofore issued and made returnable to said term of said court at any time different from that herein provided, are hereby made returnable at the time provided in section one of this act.

SEC. 3. This act shall take effect and be in force from and after its passage, and all acts and parts of acts in conflict herewith are hereby repealed.

CHAPTER XXV.

AN ACT TO AMEND SECTION FIFTEEN OF CHAPTER SIXTY-EIGHT. OF THE REVISED STATUTES AND LAWS OF THE TERRITORY OF NEW MEXICO. *Approved March 25, 1884.*

CONTENTS.

SECTION 1. Who may be summoned as jurors.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. That section fifteen of chapter sixty-eight of the "Revised Statutes and Laws of the Territory of New Mexico" be and the same hereby is amended so as to read as follows, to-wit: Section 15, "All male persons over twenty-one and under sixty years of age who shall have resided six months in the county next preceeding the term of the court to which they shall be summoned as jurors, and who shall be citizens of the United States, qualified voters of this Territory and owners of real estate in this Territory, shall be liable to be chosen and to serve as grand and petit jurors. *Provided however,* that no person living in a bigamous or polygamous state in this Territory shall be a competent or qualified juror in any court in this Territory. *Provided, further,* also, that no person who has ever been or

shall have been convicted of any felony or otherwise infamous crime in any part of the world, and shall not have been pardoned therefrom by competent authority, shall be a competent or qualified juror in any court in this Territory.

SEC. 2. This act shall be in force and take effect from and after its passage, and all laws and parts of laws in conflict with this act are hereby repealed.

CHAPTER XXVI.

AN ACT IN RELATION TO THE DISTRICT COURTS FOR THE COUNTY OF SANTA FE, BERNALILLO, AND DONA ANA, AND OTHER PURPOSES. *Approved March 12, 1884.*

CONTENTS.

SECTION 1. Juries to be selected from residents of said counties.

SEC. 2. How juries shall be selected in certain cases.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION. 1. Hereafter the juries for the District Courts for the counties of Santa Fe, Bernalillo, and Doña Ana, shall be selected from the persons residents in such counties respectively qualified by law as jurors in this Territory, in the same manner in which juries are selected for the other counties in this Territory under existing law.

SEC. 2. Hereafter, whenever in any of the District Courts of this Territory where [there] shall be a failure to select at any term the jurors to serve as grand and petit juries at the next ensuing term, the Judge shall cause the same to be selected at any time on or before the first day of such next ensuing term on which he may attend such term, such selection to be made in the same manner as required by law, when selected during the preceding term of such court; but this section shall only refer to the regular jury lists and venires, and not to talesmen.

SEC. 3. This act shall take effect and be in force and effect from and after its passage.

CHAPTER XXVII.

AN ACT RELATIVE TO THE COMPENSATION OF JURORS. *Approved April 3, 1884.*

CONTENTS.

SECTION 1. Fixes per diem and mileage. How paid.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. That hereafter all jurors attending terms of the District Courts, held within and for the several counties of the Territory, shall receive as compensation for their attendance and services, two dollars for each day's necessary attendance; and that they shall also receive for the distance necessarily traveled from their residence in going to and returning from court by the shortest practicable route, six cents a mile; said fees to be paid from the treasury of the Territory upon the warrant of the Auditor of public accounts, who is hereby authorized to audit all claims therefor upon the presentation of certificates from the clerks of said District Courts of the allowance thereof by said courts.

SEC. 2. That all laws and parts of laws in conflict with the provisions of this act are hereby repealed, and that this act shall be in force and effect from and after its passage.

CHAPTER XXVIII.

AN ACT TO AUTHORIZE EXECUTORS AND ADMINISTRATORS OF LAST WILLS AND TESTAMENTS TO MAKE CONVEYANCES OF LANDS IN CERTAIN CASES. *Approved April 3, 1884.*

CONTENTS.

SECTION 1. When deeds of conveyance may be made.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. When any deceased person may have made his last will and provided for the disposition of his property, and his real estate may have been divided up amongst his heir, heirs, and widow, or any of them, it shall be lawful for his executor or administrator to make deeds of conveyance of such real property to the heir, heirs, or widow, or either one or more of them, of such part as may have been divided to each one respectively, and such deeds of conveyance shall be evidence of the transfer of such lands from the deceased to such heir or widow.

This act shall be in force and effect from and after its passage.

CHAPTER XXIX.

AN ACT CONCERNING THE REAL ESTATE OF DECEASED PERSONS.

Approved April 1, 1884.

CONTENTS.

SECTION 1. When sales shall be valid. Surviving executors may sell.

SEC. 2. Administrator may sell and convey, when.

SEC. 3. Real estate may be sold by order of court, when.

SEC. 4. Statement by executor or administrator. Who made defendants.

SEC. 5. Summons shall issue, when.

SEC. 6. Returnable, when.

SEC. 7. Shall issue in different counties, when.

SEC. 8. How served.

SEC. 9. Notice by publication to non-resident defendants.

SEC. 10. Cause shall be continued, when.

SEC. 11. Form of proceeding.

SEC. 12. Guardian for minor to be appointed, when.

SEC. 13. Interested persons may appear and answer.

SEC. 14. Duty of the court.

SEC. 15. Order to specify, what. Mortgage to be taken, when.

SEC. 16. Property shall be mortgaged, how.

SEC. 17. May be leased, how.

SEC. 18-19. Provisions as to sale.

SEC. 20. Order of court to be recited. Conveyance to be approved.

SEC. 21. Reports to be made to the court or judge.

SEC. 22. When conveyance shall be executed.

SEC. 23. When sale shall be void and re-sale ordered.

SEC. 24. Proceeds to be administered under direction of Probate Court.

SEC. 25. When payments on real estate may be completed.

SEC. 26. Such real estate, to be disposed of, how.

SEC. 27. Probate Court may direct relinquishment.

SEC. 28. May order lands redeemed.

SEC. 29. Proceedings if executor or administrator dies.

SEC. 30. May release to mortgagor, when.

SEC. 31. Defines terms used in act.

SEC. 32. Proceedings when one or more executors refuse to act.

*Be it enacted by the Legislative Assembly of the Territory of
of New Mexico.*

SECTION. 1. In all cases where power is or may be given in any will to sell or dispose of any real estate, or any interest therein, and the same be sold or disposed of in the manner and by the persons appointed in such will, the sales shall be good and valid; and when one or more executor shall depart this life before such sale be made, the survivor or survivors shall have the same power, and their sales shall be good and valid, as though they all joined in such sale.

SEC. 2. Whenever any testator shall, by his last will, direct that his real estate, or any of it be sold, or otherwise disposed of, for the payment of his debts, or for any other purpose, and no executor be named therein; or if the executor named therein refuse such office, or be removed or die, the administrator with the will annexed, or *de bonis non*, may sell, convey, and dispose of such real estate in accordance with the provisions of such will.

SEC. 3. Whenever after inventory and appraisement therein, as herein provided, it shall appear that the personal estate of any decedent is insufficient to discharge the just debts allowed against his or her estate and the legacies charged thereon, resort may be had to the real estate, and the same may be sold, mortgaged, or leased by the executor or administrator in cases where power to that end is contained in the will, or otherwise upon the order of the court as follows, to-wit:

SEC. 4. The executor or administrator shall present to the District Court of the county, in which letters testamentary or administration were issued, his petition, setting forth the amount and value of the personal estate according to the inventory and appraisement thereof, and if sale has been made of such personal estate, the amount received from such sale, the amount of debts and claims allowed against the estate, and the amount still existing and not allowed, so far as the same may be known, the amount of legacies, if any, for the payment of

which resort must be had to the real estate, and describing particularly the whole of the real estate whereof the decedent died seized, or in or to which he or she, at the time of his or her decease had any interest, claim, or right, the nature of his or her claim, right, or title, the nature and value of the several parcels of such real estate respectively, and if the same or any thereof are encumbered, the nature and amount of such encumbrance, and pray the aid of the court in the premises. To such petition the widow or husband, and heir-at-law of such decedent, and the devisees of such real estate, if the same or any thereof be devised in the will of the decedent, and the guardians of such of them as may be minors, shall be made defendants.

SEC. 5. Upon the filing of such petition a summons shall issue against the defendants therein named, directed to the sheriff of the county, requiring the defendants to appear and answer the petition upon the return day of such summons.

SEC. 6. Every such summons shall be made returnable on the first day of the term of the court next succeeding the date thereof, unless the first day of such next term be more than fifty days after the date of such summons, in which event the same shall be returnable fifty days after the date of such summons.

SEC. 7. If there are several defendants residing in different counties, a summons shall issue to each of such counties.

SEC. 8. Service of such summons shall be by reading or delivering a copy thereof to each of the defendants therein named; in the case of minor defendants, services of summons may be made upon the legally appointed guardian of such minor, or if there be none, then upon the father or mother of such minor if either be living, and if there be no legally appointed guardian of such minor and neither the father or mother be living then upon such minor defendant.

SEC. 9. If the executor or administrator shall file with the clerk of such district court an affidavit that any defendant resides or has gone out of the Territory, or cannot be found, so that process cannot be served upon him, such clerk shall cause to be published for four weeks successively in some daily or weekly newspaper printed within the county wherein the petition is pending, or if there be no newspaper printed within such county, then in some newspaper printed in the Territory, a notice to such defendant of the filing of such petition, the time at which the writ is returnable, or if such publication be

made after the return day of the writ, the time to which such petition is continued, and requiring such defendant to appear and answer the petition on such return day, or on such day to which the petition is continued; but such affidavit and notice shall not dispense with the issuing of summons or the usual effort to make service thereof.

SEC. 10. If such summons be not served at least five days before the return day thereof, or if in case where notice by publication is permitted by the last preceding section, the first publication of such notice be not at least thirty days before the day named therein for the defendant's appearance, the cause shall stand continued to such time as may be fixed by the court or the judge thereof; *alias* summons may issue, from time to time as to any defendant not served.

SEC. 11. The form of proceeding upon such petition shall conform to the proceedings of courts of chancery, and the issue shall be formed, heard, and determined, as proceedings in chancery; *Provided*, that no defendant shall be allowed to put in issue the decedent's title or interest to or in the lands named in the petition.

SEC. 12. If it shall appear that any defendant is a minor, and has no guardian resident in this Territory, or if such guardian, if any, fail or refuse to appear to resist such petition, the court shall appoint a guardian *ad litem* to such minor, to appear in his or her behalf, and resist such petition.

SEC. 13. Any person interest in the estate as a creditor or otherwise, and not made defendant, may appear and answer such petition, and show cause against the prayer thereof at any time before final decree.

SEC. 14. Upon the hearing of the cause, upon the issue or issues formed, or where the petition may be taken for confessed, it shall be the duty of the court to hear proofs touching the matters alleged in the petition or in issue by the pleadings subsequent thereto; and if by such proofs it shall appear that the personal estate will be insufficient to discharge the just debts and claims allowed against the estate and the legacies charged thereon, and expenses of administration, the court shall determine, as nearly as may be, the amount of such deficiency, and may thereupon direct that the real estate, or such portion thereof as may be necessary, be sold or leased by the executor or administrator, or that the executor or administrator raise money for the discharge of such debts and legacies by

mortgage, of all or any part of such real estate or that any part of such real estate be sold, and the residue, or any thereof, be either mortgaged or leased, according as may seem most for the interest of all persons interested in the estate, due regard being had to the rights of all.

SEC. 15. If the court shall direct a sale of such real estate or any part thereof, the order shall specify the part to be sold, and whether such sale shall be for cash or upon credit, and if upon credit the length thereof, and the rate of interest to be paid by the purchaser pending the same; if any such sale be upon credit, the executor or administrator shall, before the delivery of a conveyance, take from the purchaser or purchasers a mortgage of the premises sold, to secure the due payment of the purchase money, unless the order of the court direct that other security be in lieu thereof.

SEC. 16. If the court shall direct that the executor or administrator raise money by mortgage on any of the real estate, the order shall specify the part to be mortgaged, a rate of interest not exceeding which, and a period for not less than which such loan shall be made.

SEC. 17. If the court shall direct the executor or administrator to lease the real estate, or any part thereof, the order shall specify the part to be leased, for what length of time, and upon what rents and conditions the lease may be made; *Provided*, that no such lease shall be made for a term exceeding five years.

SEC. 18. The court may direct in the alternative, that if the executor or administrator cannot upon mortgage of real estate, borrow the sum of money necessary at a rate of interest, and for a length of time to be named, or cannot lease the same at the rents and upon the conditions named, that then a sale thereof, or any part thereof, shall be made, specifying the part.

SEC. 19. Every sale of real estate of any decedent, in pursuance of this act, shall be made at such place and upon such notice as the court may direct, not less than twenty days, and every such sale shall be at public auction, unless in the opinion of the court it would benefit the estate of the deceased to sell the whole or any part of such real estate at private sale; in which case the court, if the same is asked for in the petition may order such real estate or any part thereof to be thus sold by the executor or administrator, but such order of sale shall

not be granted until such executor or administrator shall have made and returned into court an inventory of such real estate, and caused the same to be appraised in the manner, as near as practicable, now prescribed for the appraisement of real estate levied upon by execution, and such appraisement returned into court, nor shall such executor or administrator become the purchaser.

SEC. 20. In every such case the conveyance, mortgage, or lease, by the executor or administrator, shall recite in substance the order of the court; and every such conveyance, mortgage, or lease, made in conformity with the order of the court shall have the same effect to convey, encumber, and demise the estate which the decedent, in his or her lifetime had in the premises, as if made by such decedent in his or her lifetime; but no final conveyance of any estate so sold shall be made until approval of the proceedings of the executor or administrator by the court, as hereinafter mentioned.

SEC. 21. Within ten days or as soon thereafter as practicable succeeding any such sale, mortgage, or leasing, the executor or administrator shall present to the court or judge thereof a report of his proceedings in the premises, accompanying such report in case a sale has been made with the advertisement thereof, and proof of the publication of the same, and also with his affidavit that he did not directly or indirectly purchase any part of the real estate sold, and has no interest, direct or indirect, in any such purchase.

SEC. 22. If such report be approved by the court or judge thereof, the executor or administrator shall execute his conveyance of the premises sold to the purchaser or purchasers, as hereinbefore provided.

SEC. 23. If such report of sale be not approved the sale shall be void and the court or judge thereof may order a re-sale of the same premises.

SEC. 24. All moneys arising from any such sale, mortgaging or leasing of the real estate shall be assets in the hands of the executor or administrator for the payment of debts and legacies and shall be administered under the direction of the probate court, in the same manner as moneys arising from the sale of personal property.

SEC. 25. If any decedent shall, before his death, have purchased real estate, and shall die, before completing the payment thereof, intestate, or without devising, the same or providing

by will for the payment of the purchase money thereon due, or to accrue, and the completion of such payment, would be beneficial to the heirs or legatees of the deceased and not injurious to creditors, the executor or administrator may, with the approval of the probate court, complete such payment out of the proceeds of the personal estate.

SEC. 26. Such real estate shall, whether payment thereof be made from the personal estate or not, be disposed of in the same manner as other real estate.

SEC. 27. The probate court may in such case if it should seem most advantageous to the persons interested in the estate direct that the executor or administrator relinquish the interest and estate of the deceased, upon such terms, as he may, with the approval of the probate court, agree upon, and such relinquishment when made shall be as valid as if made by the decedent in his life time.

SEC. 28. If any decedent shall have left lands encumbered by mortgage, judgment, execution, sale or other lien, and shall not have devised the same or provided by will for the redemption thereof, the probate court shall have power, if it shall appear to be for the interest of the heirs, legatees, and creditors, to order the executor or administrator to redeem the same out of the proceeds of the personal estate, or the District Court upon petition as provided by section three to section twenty of this act may direct that other lands be sold to redeem the same.

SEC. 29. When any executor or administrator shall remove from this Territory, or resign or die, before completing any proceedings commenced under the provisions of this act, after the sale of any real estate of his testator or intestate in pursuance hereof, and before executing a deed thereof, or after an order for the sale, mortgage, or leasing of any such real estate has been made in pursuance hereof, and before the full execution of such order, the District Court or judge thereof may direct that the survivor or successor of such executor or administrator shall complete such proceedings, execute such conveyance, mortgage, or lease, or complete the execution of such order, and the resignation or death of any or all of such executors or administrators or the death of any one, or more of the defendants shall not abate the proceedings, but they shall proceed against the surviving defendants and the legal representatives and heirs of such defendants.

SEC. 30. When the mortgagee of any land or tenements

shall die leaving minor heirs, the executors or administrators of such mortgagee shall be and are hereby authorized, on receiving the amount due the estate of such deceased mortgagee, to release to the mortgagor the legal title of the said mortgaged premises, and such deed of release shall be valid.

SEC. 31. That wherever in this act the District Court or the judge thereof is referred to it shall mean and be construed to mean the District Court in a regular term or the judge thereof sitting at chambers anywhere in the district, and the acts of said judge sitting at chambers anywhere in his district shall be made a matter of record in the record of the District Court for the county in which the proceedings shall be commenced, and his said acts as such, at chambers, shall have the same force and effect as if done at a regular term in the county in which proceedings may be pending, and shall not for that reason be held or deemed invalid.

SEC. 32. In case all the executors or administrators of any will or estate shall refuse to commence and carry on the proceedings authorized by this act in any proper case, when there may be more than one executor or administrator, any one or more of them may commence and carry on the same, making the remaining executors or administrators parties defendants, and alleging the fact that they refuse to join as complainants, and in case none of the executors or administrators will commence and carry on said proceedings in any proper case, any one or more of the creditors whose claim may have been allowed properly in the probate court may do, by complying as near as may be with the terms of this act and by making such administrators or executors parties defendant, and alleging the fact of their refusal to commence the proceedings or carry them on.

SEC. 33. This act shall be in force and effect from and after its passage.

CHAPTER XXX.

AN ACT RELATIVE TO MINORS IN CERTAIN CASES. *Approved*
April 2, 1884.

CONTENTS.

SECTION 1. Jurisdiction of District and Probate Courts.

SEC. 2. Who may petition for appointment as guardian.

SEC. 3. Appointment to be made after investigation by court.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. That the district judges in their respective judicial districts shall have concurrent jurisdiction with the probate judges for the appointment of guardians as hereinafter provided.

SEC. 2. That whenever any person shall have in his charge any minor for at least seven years, whose parents are living, or either of them, and desires to be appointed guardian of such minor, who has not arrived at the age of ten years, he may petition the district judge or the probate judge in vacation to be appointed guardian of such minor.

SEC. 3. That the district judge or probate judge before whom such application is made shall proceed in a summary manner to investigate said petition, and should find good reasons to appoint the petitioner guardian for the benefit and security of the welfare of such minor, although its parents are living, or either of them, the person in whose favor the application is made shall be appointed guardian of the minor.

SEC. 4. That all laws or parts of laws in conflict or inconsistent with the present act are hereby repealed, and this act shall be in force and effect from and after its passage and approval.

CHAPTER XXXI.

AN ACT RELATING TO JUDGMENT OF JUSTICE OF THE PEACE.
Approved April 3, 1884.

CONTENTS.

SECTION 1. May be docketed by Clerk of District Court, when and how.

SEC. 2. Provisions of act of 1874 to apply.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. That when any execution issued by a justice of

the peace is returned *nulla bona* the judgment sought to be enforced thereby may, upon the application of the judgment creditor, or his agent, be docketed by the clerk of the District Court for the county within which the justice is holding office, and acting as such justice, in the same manner in which judgments of the District Court are docketed in accordance with the provisions of an act entitled an act to create a lien of judgments upon real estate, filed in the Secretary's office January 8th, 1874, and printed as chapter XXII of the acts of the Legislative Assembly at the twenty-first session thereof, and thereupon the clerk of said District Court may issue execution on said judgment in the same way and with the same force and effect as though said judgment had been recorded in said District Court; *Provided*, that the judgments creditor making such application, as aforesaid, shall file with the clerk of the District Court a duly certified transcript of the judgment, and also a duly certified copy of the execution issued by the justice and of the return thereon.

SEC. 2. That all provisions of said act of January 8th, 1874, relative to judgments of the District Courts, shall be held to apply equally to judgments of justices of the peace, which may be docketed in the manner provided in section one of this act.

SEC. 3. That all laws and parts of laws in conflict with this act are hereby repealed, and that this act shall be in full force from and after its passage and approval.

CHAPTER XXXII.

AN ACT TO AMEND AN ACT ENTITLED AN ACT RELATING TO DAMAGES. *Approved April 1, 1884.*

CONTENTS.

SECTION 1. Limits liability of Railroad Companies. Defines legal fence.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION. 1. That an act entitled an act relating to damages,

approved February 18th, 1882, be and hereby is amended by adding to section VIII of said act the following language: *Provided*, however, that this section shall apply only in cases where such animal or animals shall be negligently killed or injured by the cars, locomotives, or other carriage used on such railroad, in places where such railroad is not enclosed and protected by a good and sufficient fence, together with proper and suitable cattle guards, to prevent stock from getting on such railroad. That for the purposes of this act a good and sufficient fence is defined to be a barbed wire fence, consisting of three wires strung upon and securely fastened to substantial posts, not less than four feet and nine inches high, standing eight feet apart, the first and lowest wire to be not less than eighteen inches from the ground, the top wire to be four feet six inches from the ground, and having a pine board six inches above the ground.

SEC. 2. This act shall take effect and be in force from and after its passage.

CHAPTER XXXIII.

AN ACT IN RELATION TO CRIME AND PUNISHMENT. *Approved April 2, 1884.*

CONTENTS.

SECTION 1. Breaking into railroad cars defined as burglary. Penalty.

SEC. 2. Obstructions to, and interference with railway operating. Penalty.

SEC. 3. Injuries to railway property. Crime defined. Penalty.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. Any person who shall in the day or night time enter, by force or otherwise, any car of any railroad company, operating a railroad within this Territory, with intent to steal any valuable thing, then and there being, or that shall wilfully and wrongfully break any seal placed upon any car by such railroad company, shall be deemed guilty of burglary, and upon

conviction thereof, shall be punished as in other cases of burglary.

SEC. 2. Any person who shall place any obstruction upon any railroad track of any corporation formed under the laws of this Territory, or displace any switch, or break, or remove any railroad, or tie, or spike, or other thing, or excavate the road-bed or otherwise injure or weaken the same; or cut or in any other manner interfere with any bridge, or trestle, or culvert, so as to weaken or impair the same, or do any act with intent to throw any locomotive, car, or train off such track, or to cause a collision between locomotives, cars, or trains, or locomotives, cars, or trains, and other obstacles, or wantonly do any other act calculated to endanger the safety of any locomotives, cars, or train that might be running upon such track, shall be deemed guilty of felony, and upon conviction thereof shall be punished by imprisonment in state prison for a term not less than five nor more than ten years; and in case such act or acts shall result in injury to the person of another, or shall cause the death of another, such person shall be deemed guilty of an assault with intent to commit murder, or guilty of murder, as the case may be, and upon conviction thereof shall be punished as in other cases of assault with intent to commit murder and murder.

SEC. 3. Any person or persons who shall wilfully do, or cause to be done, any act or acts whatever, whereby any building, construction, or work of any kind, or any engine, machine, or structure, or thing, or road-bed, or track, or any thing appertaining to such track, or any property belonging to or appertaining to any railroad corporation formed under the laws of this Territory, shall be weakened, injured, impaired, obstructed, stopped, or destroyed, shall be deemed guilty of a misdemeanor, and on conviction thereof shall forfeit any pay to such corporation treble the amount of damages sustained by reason of such act or acts, and shall be fined not less than five hundred dollars, or imprisoned in the county jail not exceeding six months, or shall suffer both such fine and imprisonment in the discretion of the court.

SEC. 4. This act shall take effect from and after its passage, and all acts in conflict herewith are hereby repealed.

CHAPTER XXXIV.

AN ACT TO PROTECT PROPERTY FROM THE SPREADING OF FIRES
[ADJOINING RAILROADS.] *Approved April 1, 1884.*

CONTENTS.

SECTION 1. Railroad companies must plow fire-guards, when.

SEC. 2. Penalty for refusal. Fines, how collected.

*Be it enacted by the Legislative Assembly of the Territory of
New Mexico:*

SECTION 1. The board of county commissioners of each county in this Territory, through which any line of railroad is operated or may hereafter be operated shall have power, subject to the limitations in this act contained by an order to be entered of record, to require every railroad corporation operating a line of railroad in their respective counties, to plow as a fire-guard through such portions of said counties as shall be specially designated in such order, a continuous strip of no more than six feet in width, which said strip of land shall run parallel with said line of railroad, and be plowed in such good and workmanlike manner as to effectually destroy and cover the vegetation thereon, and be sufficient to prevent the spreading of fires; and the outer line of said strip of plowed land shall be upon the outer line of the rights of way of such railroad corporation, not to exceed, however, one hundred feet from the center of the track of the railroad. And such railroad corporations shall, in addition to the plowing of such strip, in each and every year burn off, or remove all dry grass or dead and dry vegetation, as soon as the same becomes sufficiently dry to burn, between said plowed strip and the track of such road or roads; *Provided*, however, that such plowing and burning be done between the fifteenth day of July and the first day of October, in each and every year; *Provided*, further, that the board of county commissioners shall each year serve said railroad corporations with a duly certified copy of the order, designating the particular localities where such plowing and burning shall be done, in each of said counties, at least thirty days before the said fifteenth day of July; and such fire-guards need not to be constructed, or burning

done within the limits of any city or town, nor along the line of railroads running through mountains or other lands impracticable to plow, nor where such plowing and burning, as aforesaid, would be of no practical utility.

SEC. 2. Any railroad corporation failing to comply with the provisions of section one of this act, shall be liable to pay a penalty of two hundred dollars for each and every mile, or fractional part thereof, of such strip as it neglects to plow, as aforesaid, in each and every year as aforesaid, or neglects to burn and remove the dry grass and vegetation from, as provided above, the same to be collected by an action of debt in any court of competent jurisdiction, by the Attorney General, or District Attorney of the district, in the name of the Territory, and when collected it shall be paid into the school fund of the county where the cause of action accrued, and provided such action shall be brought within two years after the cause of action accrues.

SEC. 3. Should any railroad corporation, operating a railroad in this Territory, not do the plowing and burning required to be done by this act, the board of county commissioners of such county may hire the same to be done and charge the expenses thereof to the railroad company so failing to do such plowing and burning, and such company shall be obliged to pay the same and all costs and attorney's fees for the collection thereof.

SEC. 4. All actions against railroad corporations for damages by fire, that may have been or shall be set out, or caused by operating any line of railroad in this Territory, shall be commenced by the parties injured within two years after the cause of action accrues.

SEC. 5. Chapter XLIII, of the laws of New Mexico, entitled, "An act to guard against the spreading of fires on wood and prairie lands," approved February 25th, 1882, and all acts and parts of acts in conflict herewith be and the same are hereby repealed.

SEC. 6. This act shall take effect and be in force from and after its passage.

CHAPTER XXXV.

[AN ACT] RELATING TO CERTAIN CONTRACTS FOR THE LEASE OR CONDITIONAL SALE OF RAILROAD EQUIPMENT AND ROLLING STOCK AND PROVIDING FOR THE RECORD THEREOF. *Approved April 2, 1884.*

CONTENTS.

SECTION 1. Contracts invalid unless acknowledged and recorded. .

SEC. 2. Does not invalidate contracts heretofore made.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. That whenever any railroad equipment and railroad stock shall hereafter be sold, leased, or loaned, on the condition that the title to the same by the vendee, lessee, or bailee, shall remain in the vendor, lessor, or bailor, until the terms of the contract as to the payment of the installments, amounts, or rentals payable, or the performance of other obligations thereunder shall have been fully complied with, such contract shall be invalid as to any subsequent judgment creditor or any subsequent purchaser for a valuable consideration without notice, unless,

First.—The same shall be evidenced by writing duly acknowledged before some person authorized by law to take acknowledgments of deeds;

Second.—Such writing shall be recorded in the same book as mortgages are recorded in the office of the recorder of deeds of the county in which is located the principal office or place of business of such vendee, lessee, or bailee, within the Territory;

Third.—Each locomotive or car so sold, leased, or loaned, shall have the name of the vendor, lessor, or bailor, plainly marked upon both sides thereof, followed by the words: owner, lessor, bailor, or assignee, as the case may be.

SEC. 2. This act shall not be held to apply to or invalidate any contract heretofore made of the character described in the first section.

SEC. 3. All acts or parts of acts in conflict herewith the same are hereby repealed.

SEC. 4. This act shall take effect and be in force from and after its passage and approval.

CHAPTER XXXVI.

AN ACT IN RELATION TO BANKS AND BANKING. *Approved April 3, 1884.*

CONTENTS.

- SECTION 1. Banks of discount and deposit. Organization and capital. Certificate to be filed. Limitations.
- SEC. 2. Certificate shall specify, what.
- SEC. 3. Powers of such corporation or association.
- SEC. 4. Transfers of stock invalid, when.
- SEC. 5. Purposes for which real estate may be held.
- SEC. 6. How conveyances shall be made.
- SEC. 7. Dividends declared, when. Statements, how made and published.
- SEC. 8. Penalty for neglect to make statement.
- SEC. 9. Liability of stockholders.
- SEC. 10. Liability of stockholders collectively to the association, limited.
- SEC. 11. Banking except under provisions of this act unlawful.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. Any number of persons, not less than three, may associate to establish a bank of discount and deposit upon the terms and conditions, and subject to the liabilities prescribed in this act, but the aggregate of the amount of the capital stock of any such corporation or association, shall not be less than thirty thousand (\$30,000) dollars. No bank organized under the provisions of this act shall transact any business until at least fifty per cent. of its capital stock shall have been paid into the treasury of such bank in cash, and until a certificate to that effect, under oath of the president and cashier, shall be filed in the office of the Secretary of the Territory, and in the office of the probate clerk in the county where such bank is located; nor shall said bank continue to transact busi-

ness beyond the period of one year, unless the capital stock of such bank shall have been fully paid up in cash, and a certificate stating such fact, under oath of the president or cashier, shall be filed in the office of Secretary of the Territory, and in the office of the probate clerk aforesaid; nor shall any such corporation take as security for any loan or discount a lien on any part of its capital stock; but the same security, both in kind and amount, shall be required of shareholders and of persons not shareholders; and no bank shall be the holder or purchaser of any portion of its own stock, or of the capital stock of any other incorporated company, unless such purchase shall be necessary to prevent loss upon a debt previously contracted in good faith on security which at the time was deemed adequate to insure the payment of such debt, independent of any lien upon such stock, and stock so purchased shall in no case be held by the bank so purchasing for a longer period of time than six months, if the same can be sold for what the stock cost, or at par.

SEC. 2. Such persons shall, under their hands and seals, make a certificate which shall specify:

First.—The name assumed to distinguish such corporation or association, and to be used in all its dealings.

Second.—The place where the operations of discount and deposits of such banking corporation or association are to be carried on, designating the particular county, city, or town, at which place such association shall keep an office for the transaction of its business.

Third.—The amount of the capital stock of such association, and the number of shares into which the same is divided.

Fourth.—The names and places of residence of the stockholders, and the number of shares held and owned by each of them respectively.

Fifth.—The period at which such association shall commence and terminate.

Sixth.—The names and places of residence of the several directors and officers, and the number of shares of the capital stock of such corporation or association owned and held by each of such directors and officers, which certificate shall be acknowledged and filed as provided for in section two (2) of this act.

SEC. 3. Such corporation or association, when so organized, shall have power to carry on the business of banking by dis-

counting on banking principles upon such securities as the directors or trustees shall deem expedient, by receiving deposits; by buying or selling the bonds or stocks of this or any other state or territory, or of the United States, also the bonds of any county, city, town, or school district in this Territory, legally authorized to issue such bonds; gold and silver bullion; foreign coins and bills of exchange; by loaning money on personal security; and by exercising such incidental powers as may be necessary to carry on such corporation, association or business; to elect from their number (not exceeding nine) (9) a board of directors, who may choose out of their number a president and vice-president, and appoint a cashier, teller, and such other officers and agents as their business may require, and remove such president, vice-president, cashier, tellers, officers and agents at pleasure, and appoint others in their place; the directors first elected shall hold their office till the first Monday in January next after their elections, and until their successors are elected; and all subsequent elections shall be held annually on the first Monday in January, and the directors then elected shall hold their offices until their successors are elected. Each share shall entitle the owner to one vote, but he shall have no vote while any of his paper or liabilities held by said bank are past due and unpaid. Stockholders may vote by proxy duly authorized in writing.

SEC. 4. No transfer of stock of any bank formed under this act shall be valid as against the bank, so long as the registered holder thereof shall be liable either as principal, debtor, surety, or otherwise to the association for any debts which shall be due and unpaid, nor in such case shall any dividends, interests, or profits be paid on such shares so long as such liabilities continue; but all such dividends, interests, and profits, shall be retained by the bank and applied to the discharge of such liabilities, and no stock shall be transferred upon the books of any bank, without the consent of a majority of the directors, while the registered holder is indebted to the bank.

SEC. 5. It shall be lawful for any such banking association to purchase, hold, and convey real estate for the following purposes:

First.—Such as shall be necessary for its immediate accommodation in the convenient transaction of its business.

Second.—Such as shall be mortgaged to it in good faith,

by way of security, for loans previously made by or moneys due to such association.

Third.—Such as shall be conveyed to it in satisfaction of debts previously contracted in the course of its dealings.

Fourth.—Such as it shall purchase at sales under judgments, decrees, or mortgages held by such association; but such association shall not bid at said sale a larger amount than is necessary to satisfy their debt and cost.

SEC. 6. The said association shall not purchase, hold, or convey real estate in any other case or for any other purpose, and all conveyances of such real estate shall be made to such corporation or association in the name mentioned in the articles of association, and said association may sell and convey the same free from any claim thereon against any of the stockholders, or any person claiming under them by an instrument under the hand and seal of president, or vice-president, and cashier of said association duly acknowledged.

SEC. 7. The directors of each banking association shall semi-annually, (or oftener as they may elect,) on the first Monday in January and July, declare a dividend of so much of the net profits of the bank as they shall deem expedient, and on each of such days the president, or cashier, shall make a full, clear, and accurate statement to the Territorial Treasurer of the condition of the bank as it shall be on that day after declaring the dividend, (if any be declared) which shall be verified by the oath of the president, or cashier, and shall contain a full abstract of the general accounts of the bank so as to show plainly its resources and liabilities, and the amount of each kind thereof; and the same shall be published at least once a week for three successive weeks in some newspaper of the county where such bank is located, if any newspaper be published therein; if not, then in some newspaper of general circulation published at the seat of government.

SEC. 8. If any such banking association shall neglect to make out and transmit the statement required in the preceding section for one month beyond the period when the same is required to be made, or shall wilfully violate any of the provisions of this act, the directors shall be personally liable for all debts of said association contracted previous to and during the period of such neglect.

SEC. 9. The officers and stockholders of every banking corporation or association, formed under the provisions of this act

shall be individually liable for all debts contracted during the term of their being officers or stockholders of such corporation, equally and ratably, to the extent of their respective shares of stock in any such corporation or association, except that when any stockholder shall sell and transfer his stock, such liability shall cease at the expiration of one year from and after the date of such sale and transfer.

SEC. 10. The stockholders, collectively, of any bank shall at no time be liable to such bank, either as principal, debtors, or sureties, or both, to an amount greater than two-fifths of the amount of the capital stock actually paid in, and remaining undiminished by losses or otherwise.

SEC. 11. It shall be unlawful for any person or persons, companies, or associations, other than national banks, to engage in or carry on the business of banking in this Territory except they have complied with the provisions of this act, and any and all contracts made by or with any person or persons or associations doing business as bankers contrary to the provisions of this act are hereby declared to be null and void.

SEC. 12. This act shall take effect from the first day of May, A. D. 1884, and all acts and parts of acts in conflict herewith are hereby repealed.

XXXVII.

AN ACT TO REPEAL AN ACT ENTITLED "AN ACT FOR THE INCORPORATION OF CITIES," APPROVED FEBRUARY 11, 1880. *Approved April 1, 1884.*

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. That an act entitled an act for the incorporation of cities, approved February 11, 1880, be and the same is hereby repealed.

SEC. 2. That this act shall take effect and be in force from and after its passage.

CHAPTER XXXVIII.

AN ACT IN REFERENCE TO INCORPORATED CITIES. *Approved*
April 1, 1884.

CONTENTS.

- SECTION 1. Disincorporates all cities heretofore organized.
SEC. 2. County Commissioners to be custodians of records and property.
SEC. 3. Indebtedness to be ascertained, how.
SEC. 4. Persons aggrieved may appeal.
SEC. 5. Tax shall be levied to pay indebtedness.
SEC. 6. Substitution of warrants. Publication necessary.
SEC. 7. Notices, how published.
SEC. 8. County Commissioners to sell property.
SEC. 9. Time limited for presenting accounts.

*Be it enacted by the Legislative Assembly of the Territory of
New Mexico.*

SECTION. 1. That the incorporation of all cities heretofore organized and incorporated under an act for the incorporation of cities, approved February 11, 1880, be and the same are hereby disincorporated and dissolved.

SEC. 2. That the officers of said corporations shall forthwith turn over, and deliver to the county commissioners of the respective counties in which said cities are situate, all books, records, and property belonging to the said corporations respectively, and said county commissioners are hereby made the custodians of such books, records, and property of such corporations.

SEC. 3. It shall be the duty of said commissioners of the respective counties in which said cities are situate, to ascertain the amount of the indebtedness, due and owing by said cities, and the name and names of the person or persons to whom any amount is due, and for that purpose every person or persons who may have a claim against such city, or who may hold a warrant due by such city, shall within six months from the passage of this act, and not afterwards, present the same to said board of commissioners at any regular session held during that time, and it is hereby made the duty of said county commissioners to approve all just claims and proper and legal

liabilities heretofore contracted by said cities, and reject all such claims which in their judgment are illegal or improper.

SEC. 4. Any person aggrieved by the decision of such county commissioners shall have the right to appeal to the District Court of the respective county, and such appeal shall be taken at the same time and in the same manner as appeals from judgments or decisions of the probate court, and upon such appeal the court shall render judgment approving or disapproving the whole or any part of any account as the same may appear just and proper.

SEC. 5. Whenever the whole indebtedness of said cities shall be fully and finally ascertained, it shall be the duty of the respective county commissioners to levy, or cause to be levied, a special tax upon all the taxable property situate within the limits of said cities in said counties, for five years thereafter, amounting in each year to the one-fifth part of said indebtedness, so as to pay off and liquidate the whole of said indebtedness within said five years. That such levy shall be made and tax collected in the same manner, at the same time, and by the same officers, as the county taxes are levied and collected, except that the same shall be payable only in money, and the same to be kept separate from the other taxes, and to be applied only to the payment of said indebtedness.

SEC. 6. Whenever the said indebtedness shall be ascertained as provided in the foregoing section, it shall be the duty of said board of county commissioners to cause to be published in any newspaper published in the respective counties a notice for the period of thirty days, requiring all parties to present to said board of county commissioners their approved accounts, and the said board of county commissioners shall thereupon give to the holder of the same five warrants, each for the one-fifth of the whole amount due respectively, and to be payable on the first day of January of the five years next following respectively, and payable out of the funds raised by said special tax.

SEC. 7. If no newspaper is published in any of said counties, such notice shall be published by ten handbills, posted in public places, within said city limits, under the direction of said county commissioners.

SEC. 8. That the said board of county commissioners is hereby authorized and required to sell for cash, at public or private sale, any property delivered to them according to the provisions of section two of this act, at such prices and in such

manner as they may deem proper, and to apply the proceeds of such sales to the payment of the indebtedness of such disincorporated cities.

SEC. 9. All approved accounts, provided for in section six of this act, must be presented to said county commissioners within four months from the date of the publishing of such notice and not afterwards.

SEC. 10. This act shall be in force from and after its passage; and such parts of all laws as are in conflict with this act are hereby repealed.

CHAPTER XXXIX.

AN ACT TO INCORPORATE CITIES AND TOWNS. *Approved April 1, 1884.*

CONTENTS.

- SECTION 1. Petition shall state, what. Census to be ordered. Number of inhabitants required.
- SEC. 2. Election, how called. Notice shall state, what. Form of ballot.
- SEC. 3. Result, how published. Publication shall state, what. Records to be filed.
- SEC. 4. Incorporation complete, when.
- SEC. 5. Election of officers; notice required; how conducted.
- SEC. 6. Public property defined; fee vested, how.
- SEC. 7. Additions how made; proviso.
- SEC. 8. Proceedings for annexation of contiguous territory.
- SEC. 9. Annexation by order of court. Proceedings.
- SEC. 10. Annexation of contiguous cities or towns, how determined.
- SEC. 11. Deemed complete, when. Proviso.
- SEC. 12. Body politic; powers; seal.
- SEC. 13. General powers stated.
- SEC. 14. Powers defined in detail.
- SEC. 15. To make ordinances for specified purposes.
- SEC. 16. Style of ordinances.
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- SEC. 21. Who may serve process.
- SEC. 22. Suits barred in one year.
- SEC. 23. May aid construction and repair of highways, when.
- SEC. 24. Majority of all members required, in what cases. Ordinances, how proven, when lawful.
- SEC. 25. Ordinances, record and publication; when in force; how available as evidence.

- SEC. 26. Yeas and nays called, when; majority required; officers chosen by ballot.
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SEC. 58. Mayor and Aldermen to receive no compensation.
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SEC. 63-64. Advancement in grade, how provided for.
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SEC. 71. General powers defined. Compensation of officers.
SEC. 72. Control of markets; limitations.
SEC. 73. Of highways and bridges; proviso.
SEC. 74. Removals from office; procedure; vacancies, how filled.
SEC. 75. Election and appointment of officers; salaries and fees; duties; proviso.
SEC. 76. Election of Aldermen and Treasurer; powers and duties.
SEC. 77. Marshal's duties.
SEC. 78. Corporate authority in incorporated towns, how vested.
SEC. 79. Mayor and Recorder; duties.
SEC. 80. Board of Trustees, vacancies in, how filled.
SEC. 81. Powers of, stated.
SEC. 82. Marshal, how appointed; duties; fees.
SEC. 83. Removals from office; procedure.
SEC. 84-89. Form of organization, how may be changed; procedure.
SEC. 90. Reorganization to take in contiguous territory, how provided for.
SEC. 91-97. Disincorporation; procedure.
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SEC. 108-109. Water supply; powers concerning.

SEC. 110. Indebtedness, how funded; procedure.

SEC. 111-112. Bonds, how issued, form, tax, levy for interest and sinking fund.

SEC. 113. How redeemed and cancelled.

SEC. 114-115. Funding indebtedness; conduct of election.

SEC. 116. Taxation and indebtedness, limited.

*Be it enacted by the Legislative Assembly of the Territory of
New Mexico.*

SECTION 1. When the inhabitants of any part of any county, not embraced within the limits of any city or incorporated town, shall desire to be organized into a city or incorporated town, they may apply by petition, in writing, signed by not less than three hundred of the qualified electors, permanent residents of the Territory, to be embraced in the proposed city or incorporated town, and who have at the time of presenting such petition resided therein not less than six months, to the board of county commissioners of the proper county; which petition shall describe the territory proposed to be embraced in such city or incorporated town, which shall not exceed one and a half miles either in length or breadth at the time of incorporating, and shall have annexed thereto an accurate description and map or plat thereof and state the name proposed for such city or incorporated town, which said petition, description, and map or plat shall be filed in the office of the clerk of the probate court, and upon the receipt of said petition, if properly signed, the said board of county commissioners shall order the sheriff of the county to take an accurate census of all the permanent residents who have resided in such limits not less than six months prior thereto, and return the same to the said board on lists, which return must also be filed in the office of the clerk of the probate court, and no corporation shall be allowed to be formed unless the number of such inhabitants shall exceed two thousand.

SEC. 2. When said petition and census shall be presented and filed, the board of county commissioners shall, if there be the required number of inhabitants, call an election of all the qualified electors residing within the territory embraced within said limits, as described and platted, the same to be held at some convenient place or places within said limits, the notice for which shall be given by publication in some newspaper published within said limits, if any there be, for three successive weeks, and by posting notices in five public places within

said limits, each in English and Spanish. If there be no newspaper within said limits, then such notice shall be given by posting such notices in eight public places within the same, said posting and the first publication to be not less than three weeks preceding such election. Such notice shall specify the place or places and time of such election; it shall contain a description of the limits of said proposed town or city, and state that a description and plat thereof are on file in the office of the clerk of the probate court. Said board of county commissioners shall divide said territory into wards, and shall appoint judges and clerks of election therefor, who shall qualify as required by law for judges and clerks at general elections, who shall report the result of the ballot to the board of county commissioners aforesaid. The ballot used at said election shall be, "for incorporation," or "against incorporation." Said board shall canvass the same in the manner for canvassing the result of any general election, and declare such result in like manner.

SEC. 3. If a majority of the ballots cast at such election be in favor of such incorporation, the clerk of the probate court shall, immediately on the result of such canvass being declared by said board of commissioners and being filed in his office, give notice of the result by publication in a newspaper, or, if no newspaper be published in the county, by posting in five public places within the limits of the proposed city or town, and in such notice he shall designate whether the grade of such incorporation is that of a city or of a town. A copy of the notice, with proper proof of its publication, shall be filed with the papers, and a certified copy of all papers and record entries relating to the matter on file in the clerk's office shall be filed in the recorder's office of the county and in the office of the Secretary of the Territory.

SEC. 4. When certified copies of the papers and record entries are made and filed, as required by the preceding section, and officers are elected and qualified for such city or town, as hereinafter provided, the incorporation thereof shall be completed, whereof notice shall be taken in all judicial proceedings.

SEC. 5. When the incorporation of such town or city is completed, the board of county commissioners shall give notice, for two consecutive weeks, of the time and place or places of holding the first election of officers therefor by publication in a newspaper, or if none be published within the limits of such

city or town, by posting in five public places within the limits of the same. At such election the qualified electors of such city or town, residing within the limits of such city or town, shall choose officers therefor, to hold until the first annual election of officers according to its grade, as hereinafter in this act prescribed. Said board of county commissioners shall appoint judges and clerks of the election, and otherwise it shall be conducted, and the officers elected thereat shall be qualified in the manner prescribed by law for the election and qualification of county officers.

SEC. 6. All avenues, streets, alleys, parks, and other places designated or described as for public use, on the map or plat of any city or town, or of any addition made to such city or town, shall be deemed to be public property and the fee thereof be vested in such city or town.

SEC. 7. Whenever any territory shall be laid out and surveyed as an addition to any city or town, organized under this act, such territory shall, upon the filing of the map or plat thereof in the office of the clerk of the probate court of the county in which said territory may be situate, and another such map or plat with the clerk or recorder of the city or town to which it is desired to annex such territory, become a part of said city or town, and be included within the limits and jurisdiction thereof; *Provided*, that no map or plat of such addition shall be filed for record with said clerk and recorder until the same has been by the owner or owners of such contemplated addition submitted to the city council or board of trustees of said city or town, and approved by three-fourths of the members elected thereto, and no map or plat of such addition shall be approved by said council or trustees unless the proposed streets and alleys therein are in conformity, as to width, courses, and angles, with the streets and alleys of adjoining portions of said city or town; nor unless such map or plat shall show the topography of such territory as to bluffs, streams, ditches, ravines, etc.; nor until all taxes then assessed against such territory are paid, and if the said territory shall have previously been sold for taxes and not redeemed therefrom, the owner or owners thereof shall first redeem the said land from such tax sale; *Provided*, that the tax deed has not been issued thereon.

SEC. 8. When any municipal corporation shall desire to annex any contiguous territory thereto, not embraced within the limits of any city or town, it shall be lawful for the trustees or

council of the corporation, by an ordinance passed for that purpose at least one month previously, to submit the question of annexation to the qualified electors of such corporation; and if a majority of the electors of the corporation voting on the question, shall vote in favor of such annexation, the council or trustees of such corporation shall present to the probate court a petition praying for such annexation, which petition shall describe the territory proposed to be annexed to such municipal corporation and have attached thereto a map or plat thereof, and like proceedings shall be had upon said petition as are provided in sections two and three of this act, by submitting the same to a vote of the qualified electors of such proposed addition, so far as the same may be applicable; and if the result of the election be favorable to the proposed annexation, the same record shall be made as provided in said sections, and thereupon the said contiguous territory proposed to be annexed shall be in law deemed and taken to be included in and shall be a part of said municipal corporation, and the inhabitants thereof shall in all respects be citizens thereafter of said municipal corporation.

SEC. 9. When any incorporated city shall desire to annex to such corporation any abutting and contiguous territory thereto, which is not embraced within the limits of any city, and which territory has been laid out in lots or parcels containing four acres or less, the council of such corporation may present to the District Court of the county in which such city is situate, a petition setting forth the fact and describing the territory that is desired to be annexed, and that the same has been laid out as above mentioned, together with the names of each owner of any portion of such territory, without describing at length, if there is more than one such owner, the particular portion of such territory owned by each, which petition shall have attached thereto a map or plat of such territory. A notice of the filing of such petition shall be served by publication in one daily or weekly newspaper published in such city or town, or if no such newspaper be published therein, then by posting in five public places in such territory, for the period of four weeks; and the corporation shall be plaintiff, and said owners defendants, and issues joined and the cause tried in the ordinary manner, as far as applicable, except that no judgment for costs shall be rendered against any defendant who does not make any defense. If the court find the allegations of the petition to be true, and that justice and equity require that said terri-

tory or any part thereof should be annexed to such corporation, a decree shall be entered accordingly, and from the time of entering such decree the territory therein described shall be included in and become a part of such corporation. The powers conferred under the provisions of this section shall also apply to cities acting under special charters; *Provided*, that no such abutting or contiguous territory shall be so annexed unless a majority of the residents and owners of land therein shall consent thereto.

SEC. 10. When any city or incorporated town shall desire to be annexed to another and contiguous city or incorporated town, the council or trustees of each of such cities or towns shall appoint three commissioners to arrange and report to such council or trustees, respectively, the terms and conditions on which the proposed annexation can be made; and if the council or trustees of each of such cities or towns approve of the terms and conditions proposed, they shall, by proper ordinance, so declare; and thereupon the council or trustees of each of such cities or towns, by ordinance passed at least one month prior to a special election to be called therein, may submit the question of such annexation, upon the said terms and conditions so proposed, to the electors of their respective cities or towns, and if a majority of the electors each vote in favor of such annexation, the council or trustees of each shall by proper ordinance so declare, and a certified copy of the whole proceedings for annexation of the city or town to be annexed, being filed with the clerk or recorder of the city or town to which the annexation is made, the latter shall file with the Secretary of the Territory, and in the recorder's office of the county a certified copy of all proceedings had by both of such cities or towns in the matter of annexation.

SEC. 11. When certified copies of the proceedings for annexation are filed, as contemplated in the preceding section, the annexation shall be deemed complete, and the city or town, to which the annexation is made shall have power to pass such ordinances, not inconsistent with law, as will carry into effect the terms of such annexation; and thereafter the city or town annexed shall be governed as part of the city or town to which annexation of it is made; *Provided*, that such annexation shall not affect or impair any rights or liabilities then existing for or against either of such cities or towns, and they may be enforced the same as if no such annexation had taken place.

SEC. 12. Cities and towns organized as provided in this chapter shall be bodies politic and corporate, under such name and style as they may select at the time of their organization, and may sue, or be sued, contract, or be contracted with, acquire and hold property, real and personal, have a common seal which they may change and alter at pleasure, and have such other privileges as are incident to corporations of like character or degree, not inconsistent with the laws of the Territory.

SEC. 13. All municipal corporations organized under this act shall have the general powers and privileges, and be subjected to the rules and restrictions granted and provided in the sections of this act.

POWERS.

SEC. 14. The city council and board of trustees in towns shall have the following powers.

First.—To control the finances and property of the corporation.

Second.—To appropriate money for corporate purposes only, and provide for payment of debts and expenses of the corporation.

Third.—To levy and collect taxes for general and special purposes on real and personal property.

Fourth.—To fix the amount, terms, and manner of issuing and revoking licenses.

Fifth.—To erect all needful buildings for the use of the city or town.

Sixth.—To contract an indebtedness on behalf of the city, and upon the credit thereof by borrowing money or issuing the bonds of the city or town, for the following purposes, to-wit: For the purpose of erecting public buildings; for the purpose of constructing sewers for the city or town; for the purpose of the purchase or construction of water works for fire and domestic purposes; for the purpose of the construction or purchase of a canal or canals, or some suitable system for supplying water for irrigation in the city or town; for the purpose of the construction or purchase of gas works for manufacturing illuminating gas, or purchase illuminating gas; and for the purpose of supplying a temporary deficiency in the revenue for defraying the current expenses of the city or town. The total amount of indebtedness for all purposes shall not at any time exceed five

per centum of the total assessed valuation of the taxable property in the city or town, except such debt as may be incurred in supplying the city or town with water and water works; and no loan for any purpose shall be made, except it be by ordinance, which shall be irrevocable until the indebtedness therein provided for shall be fully paid, specifying the purposes to which the funds to be raised shall be applied, and providing for the levying of a tax not exceeding, *in total amount for the entire indebtedness of the city and town*; (excepting such debt as may be incurred in supplying the city or town with water or water works,) eight mills upon each dollar valuation of the taxable property within the city or town, sufficient to pay the annual interest and extinguish the principal for such debt within the time limited for the debt to run, which shall not be less than ten years nor more than thirty years, and providing that said tax, when collected, shall only be applied to the purpose in said ordinances specified, until the indebtedness shall be paid and discharged; but no such debt shall be created, except for supplying the city or town with water, unless the question of incurring the same shall, at a regular election of officers for the city, be submitted to a vote of such qualified electors of the city or town as shall in the next preceding year have paid a property tax therein, and a majority of those voting upon the question, by ballot deposited in a separate ballot box, shall vote in favor of creating such debt.

Seventh—I—To lay out, establish, open, alter, widen, extend, grade, pave, or otherwise improve streets, alleys, avenues, sidewalks, parks, and public grounds, and vacate the same, and to direct and regulate the planting of ornamental and shade trees in such streets, avenues, and public grounds.

II—To plant trees upon the same.

III—To regulate the use of the same.

IV—To prevent and remove encroachments or obstructions upon the same.

V—To provide for the lighting of the same.

VI—To provide for the cleaning of the same.

VII—To regulate the opening therein for the laying out of gas or water mains and pipes, and the building and repairing of sewers, tunnels, and drains, and erecting gas lights; *Provided*, however, that any company heretofore organized, or

which may be hereafter organized, for the purpose of manufacturing illuminating gas to supply cities or towns or the inhabitants thereof with the same, shall have the right by consent of the city council or town trustees, but not without such consent, (subject to existing rights,) to erect gas factories and lay down pipes in the streets or alleys of any city or town in the territory, subject to such regulations as any such city or town may by ordinance impose.

VIII—To regulate the use of sidewalks along the streets and alleys, and all structures thereunder, and to require the owner or occupant of any premises to keep the sidewalks, or along the same, free from any snow and other obstruction.

IX—To regulate and prevent the throwing or depositing of ashes, garbage, or any offensive matter in, and to prevent any injury to any street, avenue, alley, or public grounds.

X—To provide for and regulate crosswalks, and curbs, and gutters.

XI—To regulate and prevent the use of streets, sidewalks, and public grounds for signs, sign posts, awnings, awning posts, telegraph poles, horse-troughs, posting hand bills, and advertisements.

XII—To regulate and prohibit the exhibition or carrying of banners, placards, advertisements, or hand bills in the streets or public grounds, or upon the sidewalks.

XIII—To regulate and prevent the flying of flags, banners, or signs, across the streets or from houses.

XIV—To regulate traffic and sales upon the streets, sidewalks, and public places.

XV—To regulate the speed of horses and other animals, vehicles, cars, and locomotives, within the limits of the corporation.

XVI—To regulate the numbering of houses and lots.

XVII—To name and change the name of any street, avenue, alley, or other public place.

XVIII—To license, regulate, and control the laying of railroad tracks; to provide for and change the location, grade, and crossing of any railroad, and to control, regulate, and prohibit the use of steam engines, and locomotives propelled by steam power within the corporate limits.

XIX—To require railroad companies to fence their respective railroads or any portion of the same, and to construct cattle

guards at crossings of streets and public roads, and keep the same in repair within the limits of the corporation.

XX—To require railroad companies to keep flagmen at railroad crossings of streets, and provide protection against injury to persons and property in the use of such railroads.

XXI—To compel street railroads to raise or lower their railroad tracks to conform to any grade which may at any time be established by such city or town, and when such tracks run lengthwise of any street, alley, or highway, to keep their tracks on a level with the street surface, and so that such tracks may be crossed at any place on such street, alley, or highway.

Eighth—To compel and require railroad companies to make and keep open, and to keep in repair ditches, drains, sewers, and culverts along and under their railroad tracks, so that filthy or stagnant pools of water cannot stand on their grounds or right-of-way, and so that the natural drainage of adjacent property shall not be impeded.

Ninth—To construct and keep in repair bridges, viaducts, and tunnels, and to regulate the use thereof.

Tenth—To construct and keep in repair culverts, drains, sewers, and cess-pools, and to regulate the use thereof.

Eleventh—To deepen, widen, dock-cover, wall, alter, or change the channel of water courses.

Twelfth—To provide for the cleansing and purification of waters, water courses, and canals, and the draining or filling of ponds on private property whenever necessary to prevent or abate nuisances.

Thirteenth—To license, tax, regulate, suppress, and prohibit hucksters, peddlers, pawnbrokers, keepers of ordinaries, theatrical, and other exhibitions, shows, and amusements, and to revoke such license at pleasure.

Fourteenth—To license, tax, and regulate hackmen, omnibus drivers, carters, cabmen, porters, expressmen, and all others pursuing like occupations, and to prescribe the compensation.

Fifteenth—To license, regulate, tax, and restrain runners for stages, cars, public houses, or other things or persons.

Sixteenth—To license, regulate, tax, or prohibit and suppress billiard, bagatelle, pigeon-hole, or any other tables or implements kept or used for a similar purpose in any place or public resort, and pin and ball alleys.

Seventeenth—To suppress bawdy and disorderly houses, houses of ill-fame or assignation, within the limits of the city

or town, or within three miles beyond, except where the boundaries of two cities or towns adjoins the outer boundaries of the city or town; and also to suppress gaming and gambling houses, lotteries, and fraudulent devices and practices, for the purpose of gaining or obtaining money or property, and to prohibit the sale or exhibiting of obscene or immoral publications, prints, pictures, or illustrations.

Eighteenth—To have the right to license, regulate, or prohibit the selling or giving away of any intoxicating, malt, vinous, mixed, or fermented liquor, within the limits of the city or town, the license not to extend beyond the municipal year in which it shall be granted, and to determine the amount to be paid for such license; *Provided*, that the city council in cities, or board of trustees in towns, may grant permits to druggists for the sale of liquor for medicinal, mechanical, sacramental, and chemical purposes only, subject to forfeiture, and under such restrictions and regulations as may be provided by ordinance; *Provided further*, that in granting licenses, such corporate authorities shall comply with whatever general law of the State may be in force relative to the granting of license.

Nineteenth—And the city council in cities, and board of trustees in towns, shall also have the power to forbid and punish the selling or giving away of any intoxicating, malt, vinous, mixed, or fermented liquor, to any minor, or apprentice, insane, idiotic, or distracted person, habitual drunkard, or person intoxicated.

Twentieth—To establish markets and market houses, and provide for the regulation and use thereof.

Twenty-first—To regulate the sale of meats, poultry, fish, butter, cheese, lard, vegetables, and all other provisions, and to provide for place and manner of selling the same.

Twenty-second—To regulate the sale of bread in the city or town, prescribe the weight and quality of the bread in the loaf.

Twenty-third—To provide and regulate the inspection of meats, poultry, fish, butter, cheese, lard, vegetables, flour, meal, and other provisions.

Twenty-fourth—To regulate the inspection, weighing, and measuring of brick, lumber, fire-wood, coal, hay, and any article of merchandise.

Twenty-fifth—To provide for the inspection and sealing of weights and measures.

Twenty-sixth—To enforce the keeping and use of proper weights and measures by venders.

Twenty-seventh—To regulate the construction, repairs, and use of vaults, cisterns, areas, hydrants, pumps, sewers, and gutters.

Twenty-eighth—To license, regulate, or prohibit places of amusement.

Twenty-ninth—To prevent intoxication, fighting, quarrelling, dog fights, cock fights, and all disorderly conduct.

Thirtieth—To regulate partition fences and party walls.

Thirty-first—To prescribe the thickness, strength, and manner of constructing stone, brick, and other buildings, and the construction of fire-escapes therein.

Thirty-second—The city council, or board of trustees, in towns, for the purpose of guarding against the calamities of fire, shall have power to prescribe the limits within which wooden buildings shall not be erected or removed into from without said limits, or placed, or repaired, without permission, and to direct that all and any building within the fire limits, when the same shall have been damaged by fire, decay, or otherwise, to the extent of fifty per cent. of the value, shall be torn down or removed, and to prescribe the manner of ascertaining such damage.

Thirty-third—First, to prevent the dangerous construction and condition of chimneys, fire-places, hearths, stoves, stove-pipes, ovens and apparatus, used in and about any manufactory, and to cause the same to be removed or placed in a safe condition when considered dangerous; second, to regulate and prevent the carrying on of manufactories dangerous in causing and promoting fires; third, to prevent the deposit of ashes in unsafe places, and to cause all such buildings and enclosures as may be in a dangerous state to be put in a safe condition.

Thirty-fourth—To erect engine-houses, hose, hose-carts, hooks and ladders, and other implements for the extinguishment of fires, and provide for the use and management of the same by voluntary fire companies or otherwise.

Thirty-fifth—To regulate and prevent storage and transportation of gunpowder, tar, pitch, resin, coal oil, benzine, turpentine, hemp, cotton, nitro-glycerine petroleum, or any of the products thereof, or any other combustibles or explosive material, and the use of lights in stables, shops, and other places, and building of bonfires. Also to regulate and restrain

the use of fire-works, fire-crackers, torpedos, Roman candles, sky-rockets, and other pyrotechnic displays.

Thirty-sixth—To regulate the police of the city or town, and pass and enforce all necessary police ordinances.

Thirty-seventh—To provide for the inspection of steam boilers.

Thirty-eighth—To prescribe the duties and powers of a superintendent or chief of police, policemen, and watchmen.

Thirty-ninth—To establish and erect calabozos, bridewells, houses of correction, and reform schools and work-houses for the reformation and confinement of vagrant, idle, and disorderly persons, and persons convicted of violating any city or town ordinance, and make rules and regulations for the government of the same, and appoint the necessary keepers and assistants.

Fortieth—To use the county jail for the confinement or punishment of offenders subject to such conditions as are imposed by law, and with the consent of the board of county commissioners.

Forty-first—To provide by ordinances in regard to the relation between all the officers and employes of the corporation in respect to each other, the corporation, and the people.

Forty-second—To prevent and suppress riots, routs, affrays, noises, disturbances, disorderly assemblies, in any public or private place.

Forty-third—To prohibit and punish cruelty to animals.

Forty-fourth—To restrain and punish vagrants, mendicants, and prostitutes.

Forty-fifth—To declare what shall be a nuisance and to abate the same, and to impose fines upon parties who may create, continue, or suffer nuisances to exist.

Forty-sixth—To appoint a board of health and prescribe its powers and duties.

Forty-seventh—To erect and establish hospitals and medical dispensaries, and control and regulate the same.

Forty-eighth—To do all acts and make all regulations which may be necessary or expedient for the promotion of health or the suppression of disease.

Forty-ninth—To establish and regulate cemeteries within or without the corporation, and acquire lands thereof, by purchase or otherwise, and cause cemeteries to be removed, and prohibit their establishment within one mile of the corporation.

Fiftieth—To regulate, restrain, and prohibit the running at large of horses, cattle, swine, sheep, goats, geese, and dogs, and to impose a license fee upon dogs.

Fifty-first—To direct the location and regulate the management and construction of packing houses, renderies, tallow candleries, bone factories, soap factories, and tanneries, within the limits of the city or town, or within the distance of one mile without the city or town limits.

Fifty-second—To direct the location and regulate the use and construction of breweries, distilleries, livery stables, blacksmith shops, and foundries, within the limits of the city or town.

Fifty-third—To prohibit any offensive and unwholesome business or establishment within, or within one mile of the limits of the corporation.

Fifty-fourth—To compel the owner of any grocery, cellar, soap or tallow candlery, tannery, stable, pig-sty, privy, or sewer, or other unwholesome or nauseous house or place, to cleanse, abate, or remove the same, and to regulate the location thereof.

Fifty-fifth—The city council or trustees of a town shall have power to provide for the taking of the city or town census, but no city or town census shall be taken by authority of council or trustees oftener than once between the years prescribed by law for census to be taken by the United States.

Fifty-sixth—To provide for the erection and care of all public buildings necessary for the use of the town.

Fifty-seventh—To establish within the corporate limits all toll-bridges, ferries, and license and regulate the same, and from time to time fix tolls thereon.

Fifty-eighth—To authorize the construction of mills and mill-races, irrigating or mining ditches and feeders, on, through or across the streets of the city or town, at such places and under such restrictions as they shall deem proper.

Fifty-ninth—The city council or board of trustees shall have power, by condemnation or otherwise, to extend any street, alley, or highway, over or across, or any sewer under or through any railroad track, right-of-way, or land of any railroad company, within the corporate limits, but where no compensation is made to such railroad company, the city shall restore such railroad track, right-of-way, or land to its former state, or in a sufficient manner not to have impaired its usefulness.

Sixtieth—The city council or board of trustees shall have no

power to grant the use of or the right to lay down any railroad track, in any street of the city or town, to any steam or horse railroad company except upon the written consent of the owners of the land, representing more than one-half of the frontage of the street, or so much thereof as it is sought to be used for railroad purposes.

Sixty-first—To tax, license, and regulate auctioneers, distillers, brewers, lumber yards, livery stables, public scales, money changers, and brokers; *Provided*, that the exercise of their powers shall not interfere with sales made by sheriffs, constables, tax collectors, coroners, marshals, executors, guardians, assignees of insolvent debtors or bankrupts, or any person required by law to sell real or personal property at auction.

Sixty-second—To prevent and regulate the rolling of hoops, playing of ball, flying of kites, or any other amusement or practice having a tendency to annoy persons passing in the street, or on the sidewalks, or to frighten teams or horses.

Sixty-third—To regulate and prohibit the keeping of any lumber-yard and the placing, or piling, or selling, any lumber, timber, wood, or other combustible material, at any place within the limits of the city or town.

Sixty-fourth—To provide by ordinance that all the paper, printing, stationery, blanks, fuel, and all the supplies needed for the use of the city or town, shall be furnished by contract, let to the lowest bidder.

Sixty-fifth—To tax, license, and regulate second-hand and junk stores, and to forbid their purchasing or receiving from minors, without the written consent of their parents or guardians, any articles whatsoever, and compel a record of purchases to be kept and subject at all times to the inspection of the police.

Sixty-sixth—To pass all ordinances, rules, and make all regulations proper or necessary to carry into effect the powers granted to cities or towns, with such fines and penalties as the council or board of trustees shall deem proper; *Provided*, no fine or penalty shall exceed three hundred (\$300) dollars, and no imprisonment shall exceed ninety days for one offense.

Sixty-seventh—They shall have power to erect water-works, or gas-works, or authorize the erection of the same by others; but no such works shall be erected or authorized until a majority of the voters of the city or town, voting on the ques-

tion at a general or special election, by vote approve the same.

Sixty-eighth—They shall have power to construct or authorize the construction of such water-works, without their limits, and for the purpose of maintaining and protecting the same from injury and the water from pollution; their jurisdiction shall extend over the territory occupied by such works and all reservoirs, streams, trenches, pipes, and drains, used in and necessary for the construction, maintenance, and operation of the same, and over the stream or source from which the water is taken, for five miles above the point from which it is taken, and to enact all ordinances and regulations necessary to carry the power herein conferred into effect.

Sixty-ninth—When the right to build and operate such water and gas works is granted to private individuals or incorporated companies by said cities and towns, they may make such grants to inure for a term of not more than twenty-five years, and authorize such individuals or companies to charge and collect from each person supplied by them with water or gas, such water or gas rent as may be agreed upon between said persons or corporations so building said works and said city or town, and such cities or towns are authorized and empowered to enter into a contract with the individual or company constructing said works, to supply said city or town with water for fire purposes thereof, and for such other purposes as may be necessary for the health and safety thereof, and also with gas, and to pay therefor such sum or sums as may be agreed upon between said contracting parties.

Seventieth—Said cities or towns are hereby authorized to condemn and appropriate so much private property as shall be necessary for the construction and operation of said water-works or gas-works, in such manner as is or may be prescribed by law.

Seventy-first—All cities and incorporated towns constructing such water or gas works are authorized to assess, from time to time, in such manner as they shall deem equitable, upon each tenement or other place supplied with water or gas, such water or gas rents as may be agreed upon by the council or trustees, or upon each vacant lot in front of which the pipes commonly called "street mains" are laid, but such vacant lots as do not take water

from such "street mains" shall not be assessed more than one-half as much as may be assessed against the same amount of frontage of lots occupied by a one-story building; and gas should be charged for by the foot, and then only to such as use it; and at the regular time of levying taxes in each year, said city or town is hereby empowered to levy and cause to be collected, in addition to the other taxes authorized to be levied, a special tax on taxable property in said city or town, which tax, with the water or gas rent hereby authorized, shall be sufficient to pay the expenses of running, repairing, and operating such works; and if the right to build, maintain, and operate such works is granted to private individuals or incorporated companies by such cities or towns, and said cities or towns shall contract with said individuals or companies for a supply of water or gas for any purpose, such city or town shall levy each year and cause to be collected a special tax, as provided for above, sufficient to pay off such water or gas rents so agreed to be paid to said individuals or company, or company constructing said works; *Provided*, however, that said last mentioned tax shall not exceed the sum of two (2) mills on the dollar for any one year.

Seventy-second—They shall have power to construct public wells, cisterns, and reservoirs, in the streets and other public and private places within the city or town, or beyond the limits thereof, for the purpose of supplying the same with water; to provide proper pumps and conducting pipes or ditches, to regulate the distribution of water for irrigation and other purposes, and to levy an equitable and just tax upon all consumers of water for the purpose of defraying the expenses of such improvements.

Seventy-third—They shall have the right and privilege of taking water in sufficient quantity, for the purpose hereinbefore mentioned, from any stream, gulch, or spring in the Territory; *Provided*, that if the taking of such water in such quantity shall materially interfere with or impair the vested right of any person, or persons, or corporations, heretofore acquired, residing upon such creek, gulch, or stream, or doing any milling or manufacturing business thereon, they shall obtain the consent of such person, or persons, or corporation, or acquire the right of domain by condemnation, and make full compensation or satisfaction for all the damages thereby occasioned to such person, or persons, or corporation.

Seventy-fourth—When it shall be deemed necessary by any municipal corporation to enter upon or take private property for any of the above uses, the same shall be examined, appraised, and the damages thereon assessed, and the proceedings in connection therewith shall, in all respects, be the same as is now provided by law for the taking of private property for the use of railroads.

Seventy-fifth—Each municipal corporation may, by general ordinance, prescribe the mode in which the charge on the respective owners of lots or lands, and on the lots or lands, shall be assessed and determined for the purposes authorized by this act; such charge, when assessed, shall be payable by the owner or owners, at the time of the assessment, personally, and also be a lien upon the respective lots or parcels of land from the time of the assessment. Such charges may be collected and such lien enforced by a proceeding in law or in equity in the District Court of the proper county, either in the name of such corporation or of any person to whom it shall have directed payment to be made. In any such proceedings, where pleadings are required, it shall be sufficient to declare generally for work and labor done and materials furnished on the particular street, alley, or highway, or for water rent or gas used. Proceedings may be instituted against all owners, or any of them, to enforce the lien against all the lots or land, on each lot or parcel, or any number of them, embraced in any one assessment; but the judgment or decree shall be separately for the amount properly chargeable to each. Any proceedings may be served in the discretion of the court for the purpose of trial, review, or appeal.

Seventy-sixth—The establishment and maintenance of a free public library is hereby declared to be a proper and legitimate object of municipal expenditure, and the council or trustees of any city or incorporated town may appropriate money for the formation and maintenance of such a library, open to the free use of all its inhabitants, under proper regulations; and for the purchase of land and the erection of buildings, or for the hiring of buildings or rooms suitable for that purpose, and for the compensation of the necessary employeés; *Provided*, that the amount appropriated in any one year for the maintenance of such library shall not exceed one mill upon the dollar upon the assessed valuation of such city or town. Any such city or incorporated town may receive, hold, or dispose of any and all

gifts, donations, devisees and bequests that may be made to such city or incorporated town, for the purpose of establishing, increasing, or improving any such public library, and the city or town council thereof may apply the use, profit, proceeds, interest, and rents accruing therefrom in any such manner as will best promote the prosperity and utility of such library. Every city or incorporated town in which such a public library shall be maintained, shall be entitled to receive a copy of the laws, journals, and all other works published by authority of the Territory after the establishment of such library, for the use of such library, and the Secretary of the Territory is hereby authorized and required to furnish the same from year to year to such city or incorporated town. But no appropriation of money can be made under this section unless the proposition is submitted to a vote of the people at a municipal election of such city or town, in such manner as may be prescribed by ordinances.

Seventy-seventh—To authorize the impounding and summary sale of horses, cattle, sheep, goats, swine, and geese found running at large within such city or town contrary to any ordinances thereof.

Seventy-eighth—To levy and collect annually from each able-bodied male citizen of such city or town, between the ages of twenty-one and sixty years, a poll tax, or require a certain amount of labor in lieu thereof; *Provided*, such tax shall not exceed the sum of one dollar per capita.

Seventy-ninth—To authorize the acceptance of a bail bond whenever any person shall have been arrested for the violation of any ordinance, and a continuance or postponement of trial shall be granted, and when such bond shall be accepted it shall have the same validity and effect as bail bonds provided for under the criminal statutes of New Mexico.

Eighty—To fill any vacancy occurring by the death, removal, or resignation of any trustee or alderman, by appointment, the successful candidate receiving a majority vote therefor; *Provided*, that such appointee shall hold his office only until the next annual election, when the vacancy shall be filled by election as in other cases.

Eighty-first—To levy annually by ordinance and collect a frontage tax on all lots fronting on water mains in towns or cities having water-works owned by such towns or cities.

SEC. 15. Municipal corporations shall have power to make

and publish, from time to time, ordinances not inconsistent with the laws of the Territory, for carrying into effect or discharging the powers and duties conferred by this act, and such as shall seem necessary and proper to provide for the safety, preserve the health, promote the prosperity, improve the morals, order, comfort, and convenience of such corporation and the inhabitants thereof, and to enforce obedience to such ordinances by fines not exceeding three hundred dollars, or by imprisonment not exceeding ninety days, by suit or prosecution before any justice of the peace within the limits of such city or town.

SEC. 16. The style of the ordinances in cities or towns shall be: "Be it ordained by the City Council or Board of Trustees of——."

SEC. 17. All actions brought to recover any fine or to enforce any penalty under any ordinance of any city or town, shall be brought in the name of the city or town as plaintiff, and no prosecution, recovery, or acquittal for the violation of any such ordinance shall constitute a defense to any other prosecution of the same party for any other violation of any such ordinance, although the different causes of action existed at the same time, and if united would not have exceeded the jurisdiction of the court or magistrate, and no person shall be incompetent as judge, juror, or witness in any action, to which the city or town shall be a party, on account of his or her being a resident citizen or property owner, within such city or town. Appeals shall be allowed from the judgment of any justice of the peace to the District Court in cases arising under this act, or the ordinances of any city or town, as in other cases.

SEC. 18. All fines and forfeitures for the violation of ordinances and all moneys collected for licenses or otherwise, shall be paid into the treasury of the corporation, at such time and in such manner as may be prescribed by ordinance, or if there be no ordinance referring to the case, then it shall be paid to the treasurer at once.

SEC. 19. In all actions for the violation of any ordinance, the first process shall be a summons; *Provided*, however, that a warrant for the arrest of the offender may issue in the first instance upon the affidavit of any person that any ordinance has been violated, and that the person making the complaint has reasonable grounds to believe the party charged is guilty thereof, and any person arrested upon such warrants shall, without unnecessary delay, be taken before the proper officer to be

tried for the alleged offense. Any person upon whom any fine or penalty shall be imposed may, upon the order of the court or magistrate before whom conviction is had, be committed to the county jail or calaboose, city prison, work-house, or house of correction, or other place provided by the city or town for the incarceration of offenders until such fines, penalty, and cost shall be fully paid; *Provided*, that no such imprisonment shall exceed ninety days for any one offense. The city council or board of trustees shall have power to provide by ordinance that every person so committed shall be required to work for the corporation at such labor as his or her strength will permit, within or without such prison, work-house, house of correction, or other place provided for the incarceration of such offenders, not exceeding ten hours each working day, and for such work the person so employed to be allowed, exclusive of his or her board, two dollars per day for each day's work on account of such fine and costs.

SEC. 20. Any and all justices of the peace shall have jurisdiction in all cases arising under the provisions of this act, or any ordinance passed in pursuance thereof, or the city council or board of trustees of any city or town may designate one justice of the peace, who shall have such jurisdiction exclusively.

SEC. 21. Any constable or sheriff of the county may serve any process or make any arrests authorized to be made by any city or town officer.

SEC. 22. All suits for the recovery of any fine, and prosecutions for the commission of any offense made punishable as herein provided, shall be barred in one year after the commission of the offense for which the fine is sought to be recovered.

SEC. 23. Any city or incorporated town may aid in the construction and repair of any highway leading thereto by appropriating therefor a portion of the highway tax belonging to said city or incorporated town, not exceeding fifty per cent. thereof, annually, as hereinafter provided. When a petition shall be presented to the council or trustees, signed by twenty of the resident tax-payers of said city or town, asking that the question of aiding in the construction or repair of any highway leading thereto be submitted to the voters thereof, the council or trustees immediately shall give notice of a special election by posting notices in five public places in said city or town, at least ten days before said election, which notices shall specify the time and place of holding said elections, the particular

highway proposed to be aided; the proportion of the highway tax then levied and not expended, or next thereafter to be levied to be appropriated; at which election, the question of "appropriation" or "no appropriation" shall be submitted, and if a majority of votes polled be for appropriation, then the council or trustees may aid in the construction and repair of said highway to the extent of said appropriation, in the same manner as they otherwise would if said highway was within the corporate limits of said city or town, but no part of such highway tax shall be expended more than two miles from the limits of such city or town.

SEC. 24. All ordinances and resolutions, or orders for the appropriation of money, shall require for their passage or adoption the concurrence of a majority of all the members elected of the council or board of trustees of any municipal corporation. All ordinances may be proven by the seal of the corporation, and when printed in book form or pamphlet form, and purporting to be printed and published by authority of the corporation, the same shall be received in evidence in all courts and places without further proof.

SEC. 25. All ordinances shall, as soon as may be after their passage, be recorded in a book kept for that purpose, and be authenticated by the signature of the presiding officer of the council or board of trustees and the clerk; and all by-laws, of a general or permanent nature, and those imposing any fine, penalty, or forfeiture, shall be published in some newspaper of general circulation in the municipal corporation, and it shall be deemed a sufficient defense to any suit or prosecution for such fine, penalty, or forfeiture, to show that no such publication was made; *Provided*, however, that if no such newspaper is published within the limits of the corporation, then, and in that case, such by-laws may be published by posting copies thereof in the three public places within the limits of the corporation, two of which places shall be the post office and the mayor's office of such town or city; and such by-laws and ordinances shall not take effect and be in force until the expiration of five days after they have been published. But the book of ordinances herein provided for shall be taken and considered in all courts of this Territory as prima facie evidence that such ordinances have been published as provided by law.

SEC. 26. In the passage or adoption of every by-law or ordinance, and every resolution or order to enter into contract

by any council or board of trustees of any municipal corporation, the yeas and nays shall be called and recorded, and to pass or adopt any by-law, ordinance, or any such resolution or order, a concurrence of a majority of the whole number of members elected to the council or board of trustees shall be required; all appointments of officers by any council shall be by ballot, and the concurrence of a like majority shall be required, and the names of those who voted, and the vote each candidate received upon the vote resulting in an appointment shall be recorded.

SEC. 27. No street or highway shall be opened, straightened, or widened, nor shall any other improvement be made which will require proceedings to condemn private property without the concurrence in the ordinance or resolution directing the same of two-thirds of the whole number of the members elected to the council or board of trustees, and the concurrence of a like majority shall be required to direct any improvement or repair of a street or highway, the cost of which is to be assessed upon the owners, unless two-thirds of the owners to be charged therefor shall petition in writing for the same.

SEC. 28. The fiscal year of each city or town organized under this act shall commence on the first day of April in each year, or at such other time as may be fixed by ordinance. The city council of cities and board of trustees in towns shall, within the last quarter of each fiscal year, pass an ordinance to be termed the annual appropriation bill for the next fiscal year, in which such corporate authorities may appropriate such sum of money as may be deemed necessary to defray all expenses and liabilities of such corporation, and in such ordinance shall specify the objects and purposes for which such appropriations are made and the amounts appropriated for each object or purpose. No further appropriations shall be made at any other time within such fiscal year, unless the proposition to make each appropriation has been first sanctioned by a majority of the legal voters of such city or town, either by a petition signed by them, or at a general or special election duly called therefor. Nor shall the total amount appropriated exceed the probable amount of revenue that will be collected during the fiscal year.

SEC. 29. Neither the city council, nor the board of trustees, nor any department, or officer of the corporation, shall add to the corporation expenditures in any one year anything over and

above the amount provided for in the annual appropriation bill of that year, except as is herein otherwise specially provided; and no expenditures for an improvement to be paid for out of the general fund of the corporation shall exceed in any one year the amount provided for such improvement in the annual appropriation bill; *Provided*, however, that nothing herein contained shall prevent the city council or board of trustees from ordering, by a two-thirds vote, any improvement the necessity of which is caused by any casualty or accident happening after such annual appropriation is made.

SEC. 30. No contract shall be hereafter made by the city council or board of trustees, or any committee or member thereof, and no expense shall be incurred by any of the officers or departments of the corporation, whether the object of expenditure shall have been ordered by the city council or board of trustees or not, unless an appropriation shall have been previously made concerning such expense, except as herein otherwise expressly provided.

SEC. 31. The treasurer shall give a bond to the city or town in its corporate name, with good and sufficient sureties, to be approved by vote of the council or board of trustees, in such sum as the council or trustees may require, and conditioned for the faithful performance of his duties as treasurer of such city or town so long as he shall serve as such treasurer, and that when he shall vacate such office he will turn over and deliver to his successor all money, books, papers, property, or things, belonging to such city or town, and remaining in his charge as such treasurer.

SEC. 32. The treasurer shall receive all moneys belonging to the corporation, and shall keep his books and accounts in such manner as may be prescribed by ordinance; and such books and accounts shall always be subject to the inspection of any member of the city council or board of trustees.

SEC. 33. He shall keep a separate account of each fund or appropriation, and the debts and credits belonging thereto.

SEC. 34. He shall give every person paying money into the treasury a receipt therefor, specifying the date of payment and upon what account paid, and he shall also file statements of such receipts with the clerk at the date of his monthly reports.

SEC. 35. He shall, at the end of each and every month, and oftener if required, render an account to the city council or

board of trustees, or such officer as may be designated by ordinance, showing the state of the treasury at the date of such account and the balance of the money in the treasury. He shall also accompany such accounts with a statement of all moneys received into the treasury, and on what account, during the preceding month, together with all warrants redeemed and paid by him, which said warrants, with any and all vouchers held by him, shall be delivered to the clerk and filed with his said account in the clerk's office upon every day of such statement. He shall return all warrants paid by him stamped or marked "paid." He shall keep a register of all warrants redeemed and paid, which shall describe such warrants and show the date, amount, number, the fund from which paid, the name of the person to whom, and when paid.

SEC. 36. He may be required to keep all moneys in his hands belonging to the corporation in such place of deposit as may be designated by ordinance; *Provided*, however, no such ordinance shall be passed by which the custody of such money shall be taken from the treasury. The treasurer shall keep all moneys belonging to the corporation in his hands, separate and distinct from his own moneys, and he is hereby expressly prohibited from using, either directly or indirectly, the corporation money or warrants in his custody and keeping for his own use or benefit or that of any other person or persons whomsoever. Any violation of this provision shall subject him to immediate removal from office by the city council or board of trustees, who are hereby authorized to declare said office vacant, and in which case his successor shall be appointed, who shall hold his office for the remainder of the term unexpired of such officer removed.

SEC. 37. He shall report to the city council or board of trustees, as often as required, a full and detailed account of all receipts and expenditures of the corporation as shown by his books up to the time of said report; and he shall, annually, between the first and tenth of April, make out and file with the clerk a full and detailed account of all such receipts and expenditures, and of all his transactions as such treasurer during the preceding fiscal year, and shall show in such account the state of the treasury at the close of the fiscal year, which account the clerk shall immediately cause to be published in a newspaper printed in such city, if there be one, and if not, then by posting the same in a public place in the clerk's office.

SEC. 38. All warrants drawn upon the treasurer must be signed by the mayor, and countersigned by the clerk, stating the particular fund or appropriation to which the same is chargeable and the person to whom payable, and no money shall be drawn except as hereinafter provided.

SEC. 39. All moneys received on any special assessment shall be held by the treasurer as a special fund to be applied to the payment of the improvement for which the assessment was made, and said money shall be used for no other purpose whatever unless to reimburse such corporation for money expended for such improvements.

SEC. 40. When a city or town warrant is received by the treasurer or collector, and there is no money in the treasury to pay the same, he is directed to endorse on it the amount for which it was received and the date thereof, and from that date the warrant is to be regarded as cancelled and cannot be reissued; but when the warrant amounts to more than is to be paid by the person presenting it, the treasurer or collector shall give him a certificate of the balance due him, which certificate on presentation to the board authorized to audit claims for the city or town shall entitle the holder to receive a new warrant for the amount specified therein.

SEC. 41. Every treasurer of any incorporated city or town of this Territory shall have and keep in his office a book to be called the registry of city or town orders, wherein shall be entered and set down at the date of the presentation thereof, and without any interval or blank line between any such entry and the one preceding it, every city or town order, warrant, or other certificate of such town or city indebtedness, at any time presented to such town or city treasurer for payment whether the same be paid at the time of presentation or not, the number and date of such order or certificate, the amount, the date of presentation, and the name of the person presenting the same, and the particular fund, if any, upon which the order is drawn. Every such registry of city or town orders shall be open at all seasonable hours to the inspection of any person desiring to inspect or examine the same.

SEC. 42. Every fund in the hands of any treasurer of any such city or town of this Territory for disbursements shall be paid out in the order in which the orders drawn thereon and payable out of the same shall be presented for payment.

SEC. 43. That whenever the treasurer of any city or town

has any city or town funds on hand in cash to the amount of five hundred dollars or over, it shall be his duty to immediately apply all such funds to the redemption of an equal amount of such outstanding city or town warrants or orders, with the interest due thereon, as may be entitled to a preference as to payment according to the order of time in which they have been previously presented to the treasurer of such city or town, as evidenced by the registry of the orders of such city or town kept in his office as provided by law, and for this purpose he shall cause to be advertised for thirty days, in some newspaper published in or nearest such city or town, a notice that he will redeem such certain city or town orders or warrants, with interest due thereon, dating their number and amounts, on presentation at the treasury of such city or town, and at the expiration of thirty days from the date of such notice such orders or warrants shall cease to bear interest.

SEC. 44. Any city or town treasurer, or his deputy, who shall fail or neglect to keep such registry, or who shall fail or neglect to register any warrant or certificate of indebtedness of such town or city as shall be entitled to registry, or shall neglect or refuse to pay such warrants or certificates in the said order of payments, there being then money in the treasury applicable to the payment thereof, or wherefrom the same ought to be paid, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in a sum not less than one hundred nor more than five hundred dollars.

SEC. 45. It shall be the duty of the collector—if anyone except the treasurer shall be specially appointed—or the person acting in that capacity, to preserve all warrants which are returned into his hands, and he shall keep such books and his accounts in such manner as the city council may prescribe. Such warrants, books, and all papers pertaining to his office, shall, at all times, be open to the inspection of and subject to the ex[a]mination of the mayor, any member of the council or board of trustees, or committee thereof. He shall, weekly, and oftener if required by the council or board of trustees, pay over to the treasurer all moneys collected by him from any source whatever, taking such treasurer's receipt therefor, which receipt he shall immediately file with the city or town clerk, as the case may be; but the clerk shall, at all times, or on demand, give such collector a copy of any such receipt so filed.

SEC. 46. He shall make a report in writing to the council or board of trustees, or any officer designated by them, of all moneys collected by him, the account whereon collected, or of any other matter connected with his office when required by the council or board of trustees or by any ordinance of the town or city. He shall also annually, between the first and tenth of April, file with the clerk a statement of all the moneys collected by him during the year, the particular warrant, special assessment, or account on which collected, the balance of moneys uncollected on all warrants in his hands, and the balance remaining uncollected at the time of the return on all warrants which he shall have returned during the preceding fiscal year to the clerk. The clerk shall publish or post the same as hereinbefore required to be done in regard to the annual report of the treasurer.

SEC. 47. The collector is hereby expressly prohibited from keeping the moneys of the city or town in his hands, or in the hands of any person or corporation to his use, beyond the time prescribed for the payment of the same to the treasurer, and any violation of this provision will subject him to immediate removal from office. All the city collector's papers, books, warrants, and vouchers, may be examined at any time by the mayor or clerk, or any members of the council or board of trustees; and the collector shall, every two weeks, or oftener if they cit council or board of trustees so direct, pay over all money collected by him from any person or persons or associations to the treasurer, taking his receipt therefor in duplicate, one of which receipts he shall at once file in the office of the clerk.

SEC. 48. The city council or board of trustees of any city or town shall have power and authority to levy taxes, the same kinds and classes upon taxable property, real, personal, and mixed, within the limits of the city or town, as are subject to taxation for Territory or county purposes, in accordance with the laws of this Territory.

SEC. 49. It shall be the duty of the county assessor each year, in making his return, to designate the property situated within the limits of any city or town in such county.

SEC. 50. The county assessor shall at the same time at which he files his returns with the county clerk or other county officers, file with the clerk or recorder of each incorporated town or city a duplicate return of all property situate within

the limits of any city or town in such county, and the council or board of trustees of said city or town shall appear, or authorize one of their number to appear, before the county commissioners, sitting as a board of equalization, and recommend such amendments and such additions to or changes in the assessment made by the county assessor of the property, or any portion thereof, within the limits of such city or town as they may deem just.

SEC. 51. It shall be the duty of the probate clerk, as soon as the assessment roll is ready in each year for the extension of the taxes, to extend the same upon the tax list of the current year, in a separate column properly headed, in the same manner as other taxes are extended, carrying said city or town tax in the general total of all taxes for the year, and shall include said city and town taxes in his general warrant to the county collector for collection.

SEC. 52. Any municipal corporation may, in addition to the means provided, if by ordinance, it so elects, cause any or all delinquent charges, assessments, or taxes, made or levied under and by virtue of and for the purpose specified in this act, or referred to therein, to be certified to the county clerk of the county, and be collected and paid over by the collector of the county in the same manner as taxes are authorized to be by this act.

SEC. 53. It shall be the duty of the collector of said county, and he is hereby authorized and empowered to collect the said city or town taxes, in the same manner, and at the same time as other taxes upon the same tax list are collected, and all the laws of the Territory for the assessment and collection of general taxes, including the laws for the sale of property for taxes and the redemption of the same, shall apply and have as full effect for the collection of such city or town taxes, as for such general taxes, except as modified by this act. The said county collector shall, at the close of every month, and oftener if the city council or board of trustees of said city or town shall require, pay over to the city or town treasurer all money so by him collected, upon the presentation to him of an order signed by the mayor and clerk or recorder of such city or town; and any such county collector shall be liable on his official bond for the faithful discharge of all the duties and obligations hereby imposed upon him.

SEC. 54. The council or board of trustees of said city or town shall, in each year, make such an allowance, to be paid out of the general fund to said county officers, as shall be a reasonable and just compensation for the extra labor imposed by this act, and shall also make an allowance, to be paid out of the general fund to the county in which said city or town is located, for the city's or town's proportion of the expense of advertising the sale of lands for delinquent taxes in each year, the amount to be certified to the council or board of trustees by the clerk and recorder of the proper county.

SEC. 55. The first Tuesday in April shall be the regular annual period for the election of municipal officers, and all officers whose election is provided for in this act, or may be provided for by ordinance, shall be elected on that day. The trustees or council of every municipal corporation shall appoint the judges and clerks of such election, and direct the place or places for holding such elections for municipal offices; and whenever the corporation is divided into wards, or precincts, there shall be one such place in each ward or precinct, and any person who at the time of any election of municipal officers would be a qualified elector under the laws of the Territory for county officers, and shall have actually resided in the ward or precinct in which he offers to vote for the thirty days last preceding the election, shall be deemed a qualified voter, and all elections for municipal officers shall in all respects be held and conducted in the manner prescribed by law in cases of county elections.

SEC. 56. The returns of all municipal elections shall be made to the clerk or recorder of the corporation, and shall be opened by him on the third day after election. He shall call to his assistance the mayor of the corporation, or the mayor shall have been a candidate at such election, then any justice of the peace of the county, and shall, in his presence, make out an abstract and ascertain the candidates elected in all respects as required by law for the canvass of the returns of county elections, and shall in like manner make out a certificate as to each candidate so elected, and cause the same to be delivered to him or to be left at his place of abode.

SEC. 57. All officers elected or appointed in any municipal corporation shall take an oath or affirmation to support the constitution of the United States and the laws of the Territory of New Mexico, and the trustees or council of any municipal corporation shall require from the treasurer and such other

officers as they may think proper, a bond with proper penalty and surety, for the care and disposition of corporation funds in their hands, and the faithful discharge of the duties of their office, and such trustees or council shall have the power to declare the office of any person appointed or elected to any office who shall fail to take the oath of office, or give bond when required for ten days after he shall have been notified of appointment or election, vacant, and proceed to appoint as in other cases of vacancy.

SEC. 58. No mayor, trustee, or alderman, shall receive any compensation for his services as trustee or alderman except as provided by law.

SEC. 59. No mayor, trustee, or alderman, shall, during the time for which he has been elected, or for one year thereafter, be appointed to any municipal office which shall be created, or the emoluments of which shall be increased during the term for which he shall have been elected, except in the cases provided in this act; nor shall any such mayor, trustee, or alderman, be interested, directly or indirectly, in the profits of any contract or job for work or services to be performed for the corporation.

SEC. 60. The emoluments of no officer whose election or appointment is required by this act shall be increased or diminished during the term for which he shall have been elected or appointed, nor shall any change or [of] compensation affect any officer whose office shall be created under the authority of this act during his existing term, unless the office shall be abolished; in which case, the emoluments of the office shall cease at the time of the abolishment of the office, and no person who shall have resigned or vacated any office shall be eligible to the same during the time for which he was elected or appointed, when during the same time the emoluments had been increased.

SEC. 61. In respect to the exercise of certain corporate powers, and the duties of certain officers, municipal corporations are divided into cities and incorporated towns.

SEC. 62. Every municipal corporation having a population of three thousand and upwards shall be a city, and every municipal corporation having a population of fifteen hundred shall be deemed an incorporated town.

SEC. 63. The Governor, Auditor of the Territory, and Secretary of the Territory, or any two of them, within six months after the returns of any census have been filed in

the office of the Secretary of the Territory, shall ascertain what incorporated towns are entitled to become cities, and the Governor shall cause a statement thereof, to be prepared by the Secretary of the Territory, which statement he shall cause to be published in some newspaper published in the territorial capital, and also in some newspaper published in each of the cities and incorporated towns entitled to such advancement, and a copy of said statement shall also be transmitted by the Secretary of the Territory to the mayor of such town, and to the next general assembly; and any such city or incorporated town shall, at the next regular annual period for the election of municipal officers, if the board of trustees shall deem the change desirable, proceed to organize according to its new grade by the election of officers properly belonging thereto, and on their election and qualification the term of service of former officers shall expire.

SEC. 64. So soon as the statement shall be published, as above provided, showing that any city or incorporated town will be entitled at the next regular annual period for the election of municipal officers to be organized into a city, the proper authority of such city or incorporated town may make and publish such ordinances as may be necessary to perfect such organization in respect to the election, duties, and compensation of officers or otherwise.

SEC. 65. The corporate authority of cities organized under this act shall be vested in a mayor and a board of aldermen, to be denominated the city council, together with such officers as are in this act mentioned or may be created under its authority.

SEC. 66. The mayor shall be elected annually by a plurality of votes of the qualified voters of the city. He shall be a qualified elector and reside within the limits of the city, and shall hold his office for the term for which he shall have been elected or qualified. He shall keep an office at some convenient place in the city provided by the city council, he shall sign all commissions, licenses, and permits granted by the authority of the city council, and such other acts as by the law or ordinance may require his certificate.

SEC. 67. In case of the mayor's death, disability, resignation, or other vacation of his office, the city council shall order a special election as soon as practicable to fill the vacancy for the remainder of the term of office, and may appoint some

qualified elector to act as mayor until such special election. The mayor of the city shall be its chief executive officer, and it shall be his special duty to cause the ordinances and the regulations of the city to be faithfully and constantly obeyed; he shall supervise the conduct of all the officers of the city, examine the grounds of all reasonable complaints made against any of them, and cause all the violations of their duty or their neglect to be promptly corrected or reported to the proper tribunal for punishment and correction; he shall have and exercise within the city limits the power conferred upon the sheriffs of counties to suppress disorders and keep the peace; he shall also perform such other duties compatible with the nature of his office as the council may from time to time require.

SEC. 68. The numbers, divisions, and boundaries of the several wards of all cities heretofore incorporated shall remain as fixed at the time when this law goes into operation, until changed by the city council; said council may at any time create new wards or alter those now established, or the boundaries thereof, as may be deemed expedient.

SEC. 69. The members of the council elected for each city shall, on the second Monday after the election, meet and organize the city council. A majority of the whole number of members shall be necessary to constitute a quorum for the transaction of business; they shall be judges of the election returns and qualification of their own members; they shall determine the rules of their own proceedings and keep a journal thereof which shall be open to the inspection and examination of any citizen; they may compel the attendance of absent members in such manner and under such penalties as they shall think fit to prescribe, and shall elect from their own body a temporary president; they shall also appoint from the qualified electors of the city a city clerk, who shall have the custody of all the laws and ordinances of the city, and shall keep a regular and correct journal of the proceedings of the council and shall perform such other duties as may be required by the ordinances of the city. The clerk in office, at the expiration of the term of service of any council, shall continue in office until his successor shall be appointed and qualified.

SEC. 70. Each city council shall cause to be provided for the clerk's office a seal, which shall be the seal of the corporation, in the center of which shall be the word "seal" and such other device as may be directed by ordinance and around the

margin the name of the city or town and the Territory. Said seal shall be affixed to all transcripts, orders, or certificates, which may be necessary or proper to authenticate under the provisions of this act or any ordinance of the city. For all attested certificate[s] and transcripts other than those ordered by the city council, the same fees shall be paid to the clerk as are allowed to county officers for similar services.

SEC. 71. The city council shall possess all the powers granted in this act, and other corporate powers of the city not herein or by some ordinance of the city council conferred on some officer of the city; they shall have the management and control of the finances, and all the property, real and personal, belonging to the corporation; they shall determine the times and places of holding their meetings, which shall at all times be open to the public, and the mayor and any three members may call special meetings by notice to each of the members of the council personally served or left at his usual place of residence; they shall appoint or provide by ordinance that the qualified electors of the city, or of the wards or districts, as the case may require, shall elect all such city officers as may be necessary for the good government of the city and for the due exercise of its corporate powers, and which shall have been provided for by ordinance as to whose election or appointment provisions have not herein been made; and all city officers whose terms of service are not prescribed, and whose powers and duties are not defined by this act, shall perform such duties, exercise such powers, and continue in office such period not exceeding one year, and until their successors are appointed and qualified as shall be prescribed by ordinance; but all officers to be elected shall be elected at the regular annual election for municipal corporation or at special elections to fill vacancies. The officers of cities shall receive such compensation and fees for their services as the council shall by ordinance prescribe.

SEC. 72. No charge or assessment of any kind shall be levied on any wagon or other vehicle, or the horses thereto attached, or on the owner thereof, bringing produce or provisions to any of the markets in the city, for standing in or occupying a place in any of the market places of the city or in the streets contiguous thereto on market days and evenings previous thereto, but the city council shall have full power to prevent forestalling, to prohibit or regulate huckstering in the markets, to prescribe

the kind and description of articles which may be sold, and the stands and places to be occupied by the venders, and may authorize the immediate seizure or arrest, or removal from the markets, of any person or persons violating its regulations as established by ordinance, together with any article of produce in their possession, and the immediate seizure and destruction of tainted or unsound meat or other provisions.

SEC. 73. The city council shall have the care, supervision, and control of all public highways, bridges, streets, alleys, public squares and commons within the city, and shall cause the same to be kept open and in repair and free from nuisances. All public bridges, exceeding forty feet in length, over any stream crossing a Territory or county highway shall be constructed and kept in repair by the county; *Provided*, that the city council may appropriate a sum not exceeding ten dollars per lineal foot to aid in the construction of any county bridge within the limits of such city, or to aid in the construction of any bridge contiguous to said city on a highway leading to the same.

SEC. 74. Any member of the city council may be expelled or removed from office, for a good cause shown, by a vote of two-thirds of all the members elected to the city council, but not a second time for the same offense. Any officer appointed by the city council may be removed from office by a vote of a majority of all the members elected to the city council, and provision may be made by ordinance as to the mode in which charges shall be preferred and a hearing be had. In all cases of vacancies in the city council they shall be filled by special election, and in case any office of an elective officer, except members of the city council, shall become vacant before the regular expiration of the term thereof the vacancy shall be filled by the city council until a successor is elected and qualified, and such successor shall be elected for the unexpired term.

SEC. 75. The qualified electors of cities shall, on the first Tuesday in April in each and every year, elect a mayor, a city marshal, a city clerk, and a city attorney, who shall each hold their offices for the term of two years and until their successors are elected and qualified. The mayor shall be the presiding officer of the council, and shall vote when there is a tie vote, but not otherwise. He shall, in addition to the duties now devolving upon him by law, have full power to nominate all appointive officers, and if said person so nominated shall receive

a majority of the votes of the city council at the first meeting thereof after the election, held on the first Tuesday in April, as aforesaid, then they shall hold their offices for the term for which they were appointed, unless sooner discharged by the mayor for good cause shown. When it may appear for the good of the city, the mayor may remit the fines of any person or persons convicted for violations of the city ordinances. The marshal elected under the provisions of this section, as aforesaid, when elected, before entering upon the duties of his office shall execute a good bond, to be approved by the mayor, and filed in the office of the city clerk in such sum as may be fixed by ordinance, with two solvent securities, for the faithful performance of the duties of his office. He shall receive such salary as may be fixed by ordinance, not exceeding one hundred and fifty dollars per month, and shall be allowed no fees. The city clerk shall perform all the duties of his office as may be fixed by ordinance, and shall receive for his services the salary or fees as shall be fixed by ordinance. The city attorney shall, in addition to the duties fixed by ordinance, prosecute all cases before the police justice, all violations of the city ordinances, and he shall receive the sum of five dollars for each case he prosecutes to conviction before the justice, to be taxed as other costs in the case; *Provided, however,* that the city shall not be liable to pay any of said fees so taxed; *Provided, further,* he shall receive no other compensation. The city council shall, at least as early as their last monthly meeting before such general municipal election, by ordinance, fix the salaries and fees of all the officers of said city for the period for which they were elected or appointed, and they shall not decrease or diminish the salary of any officer during his term of office.

SEC. 76. The qualified electors of each ward in cities shall annually, on the first day of April, elect by a plurality of votes, one alderman, who shall at the time be a resident of the ward and a qualified elector therein. His term of service shall be two years, and if any vacancy shall occur in the office of alderman by death, resignation, removal, or otherwise, the same shall be filled by election. The qualified electors of each city shall also elect, by a plurality of votes, a city treasurer, who shall hold his office for one year, and shall have such powers and perform such duties as are prescribed in this act, or by ordinance of the city council not inconsistent herewith.

SEC. 77. The marshal of cities, shall execute and return all writs and processes to him directed by the mayor or judge, and in criminal cases or cases in violation of city ordinances, he may serve the same in any part of the city; he shall suppress all riots, disturbance, and breaches of the peace, apprehend all disorderly persons in the city, and shall pursue and arrest any person fleeing from justice in any part of the Territory; he shall apprehend any person in the act of committing any offense against the laws of the Territory or ordinances of the city, and forthwith bring such persons before the competent authority for examination and trial; he shall have in the discharge of his proper duties like powers, be subject to like responsibilities, as sheriffs or constables in similar cases.

SEC. 78. The corporate authority of the incorporated towns organized for general purposes, shall be vested in a board of trustees consisting of one mayor, one recorder, and four other trustees, who shall be qualified electors residing within the limits of the corporation, and shall hold their office for one year; and until their successors are elected, and a quorum qualified, any four of said trustees shall be a quorum for the transaction of business.

SEC. 79. The mayor, or in case of his absence, the recorder shall preside at all meetings of the board of trustees; the recorder shall also be clerk of the corporation and shall attend all meetings of the board of trustees, and make a fair and accurate record of all the proceedings, rules, and ordinances made and passed by the board of trustees, and the same shall at any time be open for the inspection of electors of the corporation.

SEC. 80. The board of trustees shall have power to order special elections to fill vacancies which may happen in the board from the qualified electors of the corporation, who shall hold their office until the next annual election and until their successors are elected and qualified, and in the absence of the mayor and recorder from any meeting of said board, the members thereof shall have the power to appoint any two of their number to perform the duties of mayor and recorder for the time being.

SEC. 81. The board or trustees of any incorporated town shall have power to provide by ordinance for the election of a treasurer and such subordinate officers as they may deem necessary for the good government of the corporation, to prescri^{s-}

their duties, (where the same are not defined in this act,) and compensation or the fees they shall be entitled to receive for their services, and to require of them an oath of office and a bond, with surety, for the faithful discharge of their duties. The election of any such officer shall be at the regular annual election, and no appointment of any officer shall endure beyond one week after the qualification of the members of the succeeding board of trustees.

SEC. 82. A marshal shall be appointed by the trustees and shall be the principal ministerial officer of the corporation, and shall have the same power that constables have by law, co-extensive with the county in cases of violation of town ordinances and for offenses committed within the limits of the corporation. He shall execute the process of the mayor and justice of the peace and receive the same fees for his service that constables are allowed in similar cases.

SEC. 83. By the concurrent vote of four members of the board of trustees, the mayor, recorder, or any member of said board, or any officer of the corporation, may be removed from office, but no such removal shall be made without a charge in writing and an opportunity of hearing being given, unless the officer against whom the charge is made shall have removed out of the limits of the corporation, and when any officer shall cease to reside within the limits of the corporation it shall be deemed a good ground for a removal from office.

SEC. 84. Any city or town, incorporated by special charter, or in any other manner than that provided by this act, may abandon its organization and organize itself under the provisions of this act with the same territorial limits, by pursuing the course herein prescribed.

SEC. 85. Upon the petition of one-eighth of a number equal to the whole number of votes cast at the last preceding annual election for the city or town officers, and who are legal voters in any such city or town, to the council or trustees thereof, praying that the question of organizing under this act be submitted to the legal voters, the council or trustees shall immediately direct a special election to be held, at which such question shall be decided specifying at the same time, the time and place of holding the same, and appointing the judges and clerks of the election.

SEC. 86. The mayor, or in case there is no mayor, the presiding officer of the council or board of trustees, shall at

once issue a proclamation giving notice of such election, of the question submitted to the electors, and of the time and place of holding the election; which proclamation shall be published for four consecutive weeks in some newspaper published in such city or town, and if there is none published therein, then such proclamation shall be published by posting a copy thereof in five public places within the corporate limits of such city or town, but such question shall not be submitted oftener than once in one year.

SEC. 87. At such election those who desire to vote in favor of organizing under this law shall deposit a ballot with the words, "For municipal organization under the general law;" those desiring to vote against municipal organization under this law shall deposit a ballot with the words, "Against municipal organization under the general law." The election shall be conducted in other respects as elections for the corporation officers are conducted under the old organization. The abstracts of votes shall be returned to the city council or board of trustees, who shall canvass the same and declare the result, which shall be entered on the journal.

SEC. 88. If a majority of the votes cast at such election be in favor of organization under this act, the council or trustees shall immediately call a special election for the election of officers for such corporation according to its class, as defined by this act, and from and after the election of such officers the former organization of such city or town shall be considered as abandoned, and such city or town shall have all the rights and be subject to all the liabilities of each class to which it belongs, but the officers so elected shall hold their offices only until the next annual municipal election in such city or town.

SEC. 89. All rights and property of every description which were vested in any municipal corporation under its former organization, shall be deemed and held to be vested in the same municipal corporation under the organization herein contemplated, and no right or disability, either in favor of or against such corporation existing at the time, and no suit or prosecution of any kind shall be affected by such change; *Provided*, that where a different remedy is given by this act, which can properly be made applicable to any right existing at the time such change is made, the same shall be deemed cumulative to remedies before provided and may be used accordingly.

SEC. 90. Whenever any territory has been or shall here-

after be laid off or platted, adjoining or contiguous to any organized town, or to any addition or subdivision thereof, and the proprietor of such territory shall not have constituted the same an addition to any such town, as provided in this act, and the inhabitants of which territory shall not have become incorporated as a separate town prior to the date of the passage of this act, the town to which such territory is contiguous may proceed to abandon its organization and reorganize under this act in the manner as provided in the five next preceding sections, and in such reorganization may include all or any part of the territory so laid off or platted, as aforesaid, and in such cases the boundaries of the whole town, including such territory, shall be set forth in the petition mentioned in section 94 of this act, and all legal voters residing within those boundaries shall be entitled to vote at the election contemplated herein.

SEC. 91. Whenever one-fourth of the legal voters of any city or incorporated town in the Territory, whether incorporated under this or previous acts, shall petition the district court of the county wherein such corporation is situated for the discontinuance of the same, the said court shall cause to be published for at least thirty days a notice stating that the question of discontinuing such corporation will be submitted to the legal voters of the same at the next annual corporation election.

SEC. 92. The form of ballot shall be, "for the incorporation," and "against the corporation."

SEC. 93. If two-thirds of all the legal votes cast for and against such proposition, shall be cast "against the incorporation," then the same may be discontinued. The vote provided for in this and the two preceding sections shall not be construed to discontinue any corporation until the said corporation shall have made ample provision for the payment of all its indebtedness, and for the faithful performance of all its contracts and obligations, and shall have levied the requisite tax therefor.

SEC. 94. The vote for the purpose of disincorporation shall be taken, canvassed, and returned in the same manner as in other municipal elections.

SEC. 95. The books, documents, records, papers, and corporate seal of any city or town, so discontinued, shall be deposited with the probate clerk of the county for safe keeping and reference in future, and all court records of any mayor or other officer shall be deposited with the nearest justice of the

peace of the township, who shall have authority to execute and complete all unfinished business standing on the same.

SEC. 96. Whenever the incorporation of any city or town shall have been discontinued under the provisions of the four preceding sections, the clerk of the county wherein such corporation was situated shall publish such fact for thirty days in a county paper, if one is published in the county, if not, shall post three notices for the same length of time, and also certify the fact to the Secretary of the Territory.

SEC. 97. For the payment of its indebtedness the corporation shall issue warrants in cases where there is no money in the treasury, and the county collector shall collect the tax which shall be levied to pay such indebtedness as hereinafter contemplated and prescribed as he collects other taxes, and pay said warrants, and any surplus of this fund shall be passed over to the temporary school fund of the district where the same is levied.

SEC. 98. When any tract of land may have been, or may hereafter be filed upon, platted, and recorded as a town site in accordance with the provisions of an act of congress or law of New Mexico and no town or organization under the laws of New Mexico, shall have perfected by the inhabitants residing thereon, or the owners thereof, the same may be vacated by consent of all such inhabitants or owners and disposed of as the said inhabitants or owners shall agree; *Provided*, that a statement, signed and certified to by a majority of said inhabitants or owners, setting forth the fact of the vacation of such town site be filed with the clerk of the county in which the same shall be situated. When any tract of land has been recorded as a town site, or has been annexed as an addition to a town site, any part or portion thereof may be vacated upon the written consent of all the owners of that part or portion which it is proposed to vacate; *Provided*, that no expenditures of money have been theretofore made or incurred by said town for the improvement or benefit of said part or portion, and that the same is bounded in same or in part by exterior town lines, and that when so vacated a statement, subscribed by such owners, setting forth the facts of such vacation, together with an accurate description, map and plat of such part vacated shall be filed in the office of the clerk and recorder of the county in which such town is situated.

SEC. 99. Any city or town which has been formed, organized,

or incorporated previous to the passage of this act, or which may hereafter be formed, organized, or incorporated, and have exercised, or shall exercise, the rights and powers of a municipal corporation, and shall have in office a board of officers exercising the duties of their offices, and the legality of the formation or organization shall not have been or shall not be legally denied or questioned within two years from date of its formation or organization, shall be deemed to be a legally incorporated city or town, and its formation, organization, or incorporation shall not thereafter be questioned.

SEC. 100. All general laws providing for the organization and government of incorporated cities or towns in the Territory of New Mexico are hereby repealed.

SEC. 101. Whenever any city or town abandons its old organization and incorporates under this act, it shall be the duty of the county collector to collect, in the same manner as other taxes are collected, any and all taxes of such city or town which may at the time of such incorporation have become due or delinquent, and whenever property shall have been before such re-incorporation sold for taxes due any such city or town, and the same shall not have been redeemed nor the deed executed therefor prior to incorporation, it shall be the duty of the county collector to act in all respects regarding the redemption of such property, the collection of taxes thereon, and the execution of the deed therefor, as though the same had been sold subsequent to such re-incorporation.

SEC. 102. Whenever any city or town incorporated under this act, or whenever any city or town heretofore incorporated shall reorganize under this act, after the time for making the annual assessment for taxation has passed, the council or board of trustees of each city or town may provide by ordinance or resolution for the assessment of taxable property within the corporate limits of said city or town. When such assessment is made and approved by the council or trustees, they may proceed to levy the necessary taxes for the fiscal year, which levy shall be certified by the clerk of such city or town to the probate clerk, who shall extend the same upon the tax list of the current year, as now required by section fifty-two of this act, and the county collector shall thereupon proceed in the collection of such taxes in all respects as herein before provided for the collection of such taxes in cities and towns. It shall not be necessary for any such city or town to pass the

annual appropriation bill required by section twenty-eight of this act; *Provided*, that this section shall apply only to the assessment and collection of taxes for the first fiscal year after such incorporation or re-organization.

SEC. 103. At the first general election in cities, after incorporation under this act, two aldermen shall be elected from each ward, and the council shall determine by lot their term of service, so that one member from each ward may serve two years, and one for one year. Thereafter one alderman in each ward shall be elected annually as provided in section eighty-five of this act.

SEC. 104. In all suits brought for the recovery of any fines or penalties for violation of any ordinance, it shall be sufficient to state in the complaint or affidavit the number of the section and title of the ordinance violated, together with the date of its passage, without stating said section or ordinance in full or the substance thereof.

SEC. 105. Every city or town incorporated previous to the taking effect of this act which shall choose to retain such organization shall, in the enforcement of the powers or the exercise of the duties, conferred by the special charter or general law under which the same shall be incorporated, proceed in all respects as provided by such special charter or general law.

SEC. 106. Whenever any city or town, incorporated previous to the taking effect of this act, under a special charter, shall re-organize under this act, the by-laws and ordinances adopted and in force in such city or town previous to such re-organization shall remain in full force and effect for all purpose[s] until the same are changed, amended, or repealed by the city council or board of trustees elected under the new organization.

SEC. 107. Any mayor, alderman, or trustee of any city or town, who shall take or receive payment for any service by him rendered contrary to the provisions of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof he shall be fined not less than twenty-five dollars nor more than one hundred dollars. And said fines, when collected, shall be paid into the general fund of said city or town.

SEC. 108. Any incorporated town or city in this Territory shall have power to purchase or lease any canal or ditch already constructed, or which may hereafter be constructed, and all the rights, privileges, franchises of any person or persons, or corporation owning the same, or having any interest or right

therein, and to hold and operate the same in the same manner as the persons or corporation from whom the same may be purchased or leased might otherwise do; *Provided*, such purchase or lease shall be made for the purpose of supplying, by said ditch or canal, water for the use of the people of said city or town. *And provided further*, that a majority of the qualified electors of such city or town, who shall vote at any regular election which may be held for the election of city or town officers, shall vote in favor of said purchase.

SEC. 109. Any town or city making such purchase or lease shall thereby assume all obligations and other duties which by law devolve upon the owner or owners of such ditch or canal of whom the same may be purchased or leased by virtue of this act, and shall have power to repair, improve or enlarge the same, or any flume, dam, or gate connected therewith, and for such objects may levy and collect taxes in the same manner as other taxes are levied and collected by law. The management of such ditch or canal shall be under the control of the board of trustees, or council, as the case may be, of such city or town.

SEC. 110. It shall be the duty of the city council or board of trustees of any city or town having a floating indebtedness exceeding ten thousand dollars, upon a petition of fifty of the electors of said city or town, who shall have paid taxes upon property assessed to them in said city or town in the preceding year, to publish for the period of thirty days in a newspaper published within said city or town, a notice requesting the holders of the warrants of such city or town to submit in writing to the city council or board of trustees, within thirty days from date of the first publication of such notice a statement of the amount of warrants of such city or town, with accrued interest thereon, which they will exchange at par for the bonds of such city or town, to be issued under the provisions of this act, taking such bonds at par. It shall be the duty of such city council or board of trustees, at the next general election occurring after the expiration of thirty days from date of the first publication of the notice aforesaid, upon the petition of fifty of the electors of such city or town, who shall have paid taxes upon property assessed to them in said city or town the preceding year, to submit to the vote of qualified electors of such city or town who shall have paid taxes upon property assessed to them in said city or town, in the preced-

ing year, the question whether the city council or board of trustees shall issue bonds of such city or town, under the provisions of this act, in exchange at par for warrants of such city or town at par, issued prior to the date of the first publication of the aforesaid notice, or they may submit such question at a special election, which they are hereby empowered to call for that purpose, at any time after the expiration of thirty days from the date of such publication of the notice aforementioned on the petition of fifty qualified electors as aforesaid, and they shall publish, for the period of at least thirty days immediately preceding such general or special election, in some newspaper published in such city or town, a notice that such question will be submitted to the duly qualified electors as aforesaid at such election. The collector of the county in which such city or town is located, shall make out and cause to be delivered to the judges of election in each election precinct, prior to said election, a certified list of the tax payers of such city or town who shall have paid taxes upon property assessed to them in the preceding year, and no person shall vote upon the question of funding the city or town indebtedness unless his name shall appear upon such certified list, nor unless he shall have paid all city or town taxes assessed against him in such city or town the preceding year. If a majority of the votes lawfully cast upon the question of such funding of the city or town indebtedness shall be for funding of such indebtedness, the city council or board of trustees may issue to any person or corporations holding any city or town warrant or warrants issued prior to the date of the first publication of the aforementioned notice, coupon bonds of such city or town in exchange therefor at par. No bonds shall be issued of less denomination than one hundred dollars, and if issued for a greater amount, then for some multiple of that sum, and the rate of interest shall not exceed seven per cent. per annum, the interest to be paid semi-annually at the office of the city or town treasurer or in the city of New York, at the option of the holders thereof. Such bonds to be payable at the pleasure of the city or town, after five years from date of their issuance, but absolutely due and payable fifteen years after date of issue. The whole amount of bonds issued under this act shall not exceed the sum of the city or town indebtedness at the date of the first publication of the aforementioned notice, and the amount shall be determined by the city council or board of trustees, and a cer-

tificate made of the same and made a part of the records of the city or town, and any bond issued in excess of said sum shall be null and void, and all bonds issued under the provisions of this act shall be registered in the office of the Territorial Auditor, to whom a fee of ten cents shall be paid for recording each bond.

SEC. 111. All bonds which may be issued under the provisions of this act shall be signed by the mayor, and countersigned by the city or town treasurer, and attested by the city clerk or recorder, and bear the seal of the city or town on each bond, and shall be numbered and registered in a book kept for that purpose by the city or town treasurer.

SEC. 112. The city council or board of trustees shall be authorized to prescribe the form of such bonds and coupons thereto, and to provide for the half-yearly interest accruing on such bonds actually issued and delivered. They shall cause to be levied annually a sufficient tax to fully discharge such interest, and for the ultimate redemption of such bonds they shall cause to be levied annually after four years from the date of such issuance, such tax upon all taxable property in their city or town as shall create a yearly fund equal to ten (10) per cent of the whole amount of such bonds issued, which fund shall be called the redemption fund, and all taxes for interest on and for the redemption of such bonds shall be paid in cash only, and shall be kept by the city or town treasurer as a special fund to be used in payment of interest on and for the redemption of such bonds only, and such taxes shall be levied and collected as other taxes.

SEC. 113. It shall be the duty of the city or town treasurer, when there are sufficient funds in his hands to the credit of the redemption fund to pay in full the principal and interest of any such bonds, immediately to call in and pay as many of such bonds and interest accrued thereon as the funds on hand will liquidate, as hereinbefore provided. Such bonds shall be paid in the order of their number, and when any bonds or coupons issued under this act are taken up it shall be the duty of the said treasurer to certify his action to the city council or board of trustees, who shall cancel the same so that they can be plainly identified, and cause a record to be made of the same; and when it is desired to redeem any such bonds, the city or town treasurer shall cause to be published for thirty days in some newspaper at or nearest such city or town, and

in a newspaper published in such city, a notice that certain city or town bonds, by numbers and amounts, will be paid upon presentation, and at the expiration of such thirty days such bonds shall cease to bear interest.

SEC. 114. All persons voting on the question as hereinbefore provided shall vote by ballot, and all ballots shall be deposited in a box to be used for that purpose only, and on which shall be printed the words, "for funding city [or town] debts," "against funding city [or town] debts," and if upon canvassing the vote, (which shall be canvassed in the same manner as the vote for city or town officers,) it shall appear that a majority of all the votes cast upon the question so submitted are for funding the city or town debt, then the city council or board of trustees shall be authorized to carry out the provisions of this act, and the canvassing board shall certify the vote, and it shall be made part of the city or town records. The judges of election shall make and certify to the city or town clerk, or recorder, a separate list of the names of the electors voting upon the question of the funding of the city or town indebtedness in the order in which the ballot of the elector so voting is received, and each ballot shall be numbered in the order in which it is received, and the number recorded on the said list of voters opposite the name of the voter who presents the ballot.

SEC. 115. As soon as possible after such election, if the bonds shall be voted, the officers herein mentioned and authorized shall proceed to execute the provisions hereof as prescribed in the five next preceding sections.

SEC. 116. No more than one per centum ad valorem shall ever be levied or collected, by any corporation organized under this act, upon the assessed value of the taxable property situate within the limits of such corporation for all purposes, and no indebtedness shall be incurred which will require any greater annual expenditure than said one per centum per annum will fully pay off and satisfy.

SEC. 117. This act shall be in full force and effect from and after its passage.

CHAPTER XL.

AN ACT AMENDATORY OF THE LAWS RELATING TO CORPORATIONS. *Approved March 29, 1884.*

CONTENTS.

SECTION 1. Election of directors; one-third residents of Territory.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. That section five of an act of the Legislative Assembly of the Territory of New Mexico, approved December 27, 1867, entitled an act to create a general incorporation law, permitting persons to associate themselves together as bodies corporate for mining, manufacturing, and other industrial pursuits, be amended so as to read as follows: Section 5. The corporate powers of the corporation shall be exercised by a board of not less than three directors, who shall be stockholders of the company and a majority of them citizens of the United States, and at least one-third of whom shall be residents of the Territory of New Mexico, and who shall, after the expiration of the term of the directors first elected, be annually elected by the stockholders at such time and place, and upon such notice, and in such mode, as shall be directed by the by-laws of the company; but all elections shall be by ballot, and each stockholder, either in person or by proxy, shall be entitled to as many votes as he owns shares of stock, and the persons receiving the greatest number of votes shall be directors. When any vacation shall happen among the directors, by death, resignation, or otherwise, it shall be filled for the remainder of the year in such manner as may be provided by the laws of the company.

SEC. 2. All acts and parts of acts in conflict herewith are hereby repealed.

This act shall take effect from the time of its passage.

CHAPTER XLI.

AN ACT IN RELATION TO COMPANIES FOR SUPPLYING WATER FOR TOWNS AND CITIES. *Approved April 3, 1884.*

CONTENTS.

SECTION 1. Confers power for condemning right of way.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. That all corporations which have been heretofore or may hereafter be formed under the laws of the Territory of New Mexico for the purpose of supplying water for domestic, irrigating, or manufacturing purposes, for cities or towns, with a population of three thousand persons or more, shall have all the powers and shall be entitled to all the rights and privileges, so far as they may be necessary for the transaction of the business of any and all such corporations, conferred on railroad companies by section one, chapter (title) VII, and section one of chapter (title) IX, of an act entitled "An act to provide for the incorporation of railroad companies and the management of the affairs thereof, and other matters relating thereto," approved February 2, 1878; and also to all the rights and privileges conferred on companies by the act approved January 30, 1872, entitled "An act providing for the appointment of appraisers to assess the value of real estate over which lines of railway may pass."

SEC. 2. This act shall be in force and effect from and after the day of its passage.

CHAPTER XLII.

AN ACT TO AMEND THE TWENTY-FIRST SECTION OF AN ACT ENTITLED "AN ACT TO PROVIDE FOR THE DISPOSAL OF TOWN LOTS AND THE PROCEEDS OF SALE IN TOWN SITES ON THE PUBLIC DOMAIN," APPROVED FEBRUARY 16, 1882. *Approved March 6, 1884.*

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. That the twenty-first section of an act entitled, "An act to provide for the disposal of town lots and the proceeds of sale in town sites on the public domain," be amended so as to read as follows: Before said corporate authorities, through commissioners hereinafter provided, or probate judge, shall be required to execute and deliver any deed of conveyance to any person or persons claiming to be entitled to said lands and deed. Therefore, such person or persons shall pay to him or them, through said commissioners, the sum of money chargeable on the portion to be conveyed, according to the statement or account mentioned in section twenty of this act; and in case when the trust is held by corporate authorities, such additional sum as said corporate authorities may charge for the same, not exceeding five dollars for each five thousand square feet of such lands, and the further sum of one dollar for the execution and acknowledging of the deed, together with the sum of twenty-five cents for attestation, with the seal of the town, by the town clerk. When the land is entered by a probate judge of the county court, deeds shall be signed by such probate judge, or his successor in office, under his private seal or scroll, and such probate judge of the county court shall receive the sum of one dollar for each and every lot, piece or parcel thereof so conveyed in addition to the several sums as as prescribed in section twenty of this act, to be paid by the person or persons claiming to be entitled to such deed or conveyance.

SEC. 2. Be it further enacted that all parts of said twenty-first section in conflict herewith are hereby repealed.

CHAPTER XLIII.

AN ACT TO AMEND AN ACT REGULATING INSURANCE COMPANIES.

Approved April 3, 1884.

CONTENTS.

SECTION 1. Capital limitations; attorneys to be appointed; certificates required; publication of statements; agent's statement and licenses.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. Section twenty-three of an act regulating insurance companies, approved February 18, 1882, shall be amended to read as follows: It shall not be lawful for any insurance company, association, or partnership, organized or associated for any form of insurance, incorporated by or organized under the law of any State, or the United States, or any foreign government, directly or indirectly, to take or transact any business of insurance in this Territory unless possessed of three hundred thousand dollars of actual paid up capital, excepting companies transacting and confining their business exclusively to the insurance of plate glass against breakage; and all accident insurance companies, either stock or mutual, which shall be possessed of one hundred thousand dollars of actual paid up capital or available cash assets, exclusive of any assets of any such company, as shall be deposited in any other States, or Territories, or (foreign) countries, for the especial benefit or security of the insured therein; and any such company desiring to transact any such business as aforesaid, by any agent or agents in this Territory, shall appoint one attorney to accept service, which said attorney shall reside at the county seat of such county, and may be an agent of said company in each county in which agencies are established, and shall file with the Territorial Auditor a written instrument, duly signed and sealed, authorizing such attorney of said company to acknowledge service of process for and in behalf of such company in this Territory, consenting that such service of process, mesne or final, upon such attorney shall be taken and held as valid, as if served upon the company, to the laws of this Territory, or any other Territory or State, and waiving all claim of right or error for reason of such acknow-

ledgement or service, and also, a certified copy of their charter or deed of settlement, together with a statement under oath of the president, or vice-president, or other chief officers and secretary of the company, for which they may act, stating the name of the company and the place where located, the amount of its capital, with a detailed statement of the facts and items as required from companies organized under the laws of this Territory, as per section twenty thereof; such statement shall also show to the full satisfaction of the Territorial Auditor that said company, if organized without the United States of America, has deposited in some one of the United States or Territories a sum not less than one hundred thousand dollars for the special benefit or security of the assured therein, and shall file also a copy of the last annual report, if any made under any law of the State, Territory, or foreign country, by which such company was incorporated, and no agent shall be allowed to transact business for any company whose capital is impaired by the liabilities as stated in section twenty of this act, to the extent of twenty per cent thereof, while such deficiency shall continue, and every insurance company doing business in this Territory, whether life, fire, or accident, shall by itself or authorized agent, under penalty of forfeiture of the license, publish a synopsis of its last preceding annual statement, made to the Territorial Auditor of New Mexico, in a newspaper of general circulation published in such counties where each agency is established in this Territory, and if there be no such newspaper published in the county where the agency is established, the said statement shall be published in some newspaper of the Territory having general circulation in said county. Said synopsis of statement shall show the assets and liabilities of said company, and shall be published within sixty days after said company shall have made its annual statement as provided in section twenty of this act. Upon the first day of January, of each year, every insurance agent doing business in the Territory of New Mexico shall make a sworn statement setting forth the life, fire, or accident insurance companies represented by him, and the amount received by him in premiums for the several companies, together with the aggregate amount of premiums by him received. This statement shall be forwarded to the Territorial Auditor before the first day of February of each year, and shall be accompanied by payment of the annual license, the amount of which shall be governed as follows:

For agents whose premium receipts have been less than ten thousand dollars for the past year, shall pay twenty-five dollars; for agents whose premium receipts have been more than ten thousand dollars and less than twenty thousand, the license shall be fifty dollars; more than twenty thousand dollars and less than thirty thousand dollars, the license shall be one hundred dollars, more than thirty thousand dollars and less than forty thousand dollars, the license shall be one hundred and fifty dollars; more than forty thousand dollars and less than fifty thousand dollars, the license shall be two hundred dollars. After deducting ten per cent. for the fees of the Auditor, the balance of such amounts collected on license shall be paid over to the Territorial Treasurer for the benefit of the public school fund. It shall not be lawful for any insurance company, not organized under the laws of this Territory, to transact business in any county in this Territory without having first duly authorized and commissioned at least one agent for itself who shall reside at the county seat thereof. It shall not be lawful for any person, not a legal resident of this Territory, under the laws thereof to solicit business for any insurance company in any county in the Territory without paying to the local agent of said company the full and usual commission or brokerage for which the local agent would be entitled had he solicited the business himself, and any commission or brokerage upon any business so secured by any agent, not a legal resident of the Territory, may be considered a legal claim against the company represented by such person or the agent himself, and the local agent may bring suit in any of the courts of this Territory against the said offending agent, or the company he represents, or both jointly, and obtain judgment for all damages and costs arising therefrom.

SEC. 2. All acts or parts of acts in conflict with this act are hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

CHAPTER XLIV.

AN ACT IN RELATION TO THE LOCATION OF MINING CLAIMS.

Approved March 25, 1884.

CONTENTS.

SECTION 1. Designates work to be performed before recording.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. That on and after the first day of April, 1884, in addition to the present requirements of law in regard to the location of mining claims, the locator of a mining claim shall, within ninety days from the date of taking possession of the same, and previous to placing the same upon record in the county clerk's office, shall sink a discovery shaft upon such claim to the depth of at least ten feet from the lowest part of the rim of such shaft at the surface, or shall drive a tunnel, open cut, or adit upon such claim exposing mineral in place at least ten feet below the surface.

SEC. 2. All laws or parts of laws in conflict with this act are hereby repealed.

CHAPTER XLV.

AN ACT EXPLANATORY OF AN ACT ENTITLED "AN ACT TO COMPEL MINING COMPANIES TO PERMIT STOCKHOLDERS TO EXAMINE COMPANY MINES, ETC," APPROVED MARCH 2, 1882.
Approved March 14, 1884.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION. 1. Whenever the words "any person owning stock" occur in an act entitled "An act to compel mining companies

to permit stockholders to examine company mines, etc.," approved March 2nd, 1882, they shall be taken and considered to mean stock-holders whose names appear on the stock book of the company as owners of stock, and none others.

SEC. 2. All acts and parts of acts in conflict herewith are hereby repealed.

CHAPTER XLVI.

AN ACT TO REPEAL AN ACT ENTITLED "AN ACT IN RELATION TO LODE CLAIMS," APPROVED MARCH 1, 1882. *Approved March 11, 1884.*

CONTENTS.

SECTION 1. Repeals act requiring proof of labor.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. That an act entitled an act in relation to lode claims, dated March 1st, 1882, be and the same is hereby repealed.

SEC. 2. This act shall be in force and effect from and after its passage.

CHAPTER XLVII.

AN ACT FOR THE PROTECTION OF STOCK AND FOR OTHER PURPOSES. *Approved April 1, 1884.*

CONTENTS.

SECTION 1. Brands and marks required to be recorded.

SEC. 2. Certificate of brand; how recorded; preferences.

SEC. 3. Ear marks, how made and recorded.

SEC. 4. Brands *prima facie* evidence, when.

SEC. 5. Changing or defacing brands; penalty.

- SEC. 6. Intermixed herds to be separated, how; liability.
- SEC. 7. Liability of persons having stock in possession not their own.
- SEC. 8. Liability of drovers.
- SEC. 9. Trespass on settlers and ranchers; penalty.
- SEC. 10. Removal of hides from dead cattle; penalty.
- SEC. 11. Bills of sale to be taken and witnessed, when.
- SEC. 12. Penalty for violating preceding section.
- SEC. 13. Bill of sale to be exhibited on demand; penalty.
- SEC. 14. Provisions of last three sections to be construed, how.
- SEC. 15. Stealing or purchasing stolen cattle, penalty.
- SEC. 16. Grand larceny defined, penalty.
- SEC. 17. Illegal sales defined, penalty.
- SEC. 18. Butchers to give bond and keep records.
- SEC. 19. Penalty, how recovered.
- SEC. 20. Penalty for failing to keep record.
- SEC. 21. Record, hides and horns subject to inspection; penalty.
- SEC. 22. Liability of sureties on bonds.
- SEC. 23. Carrying fire-arms at round-up prohibited; penalty.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION. 1. Animals such as are usually branded may be branded on either side with the owner's brand. All brands shall be recorded in the county where the owners reside. No evidence of ownership by brands shall be permitted in any court in this Territory unless the brands shall have been recorded as provided in this act. Each drove of cattle or sheep which may be driven into or through any county of this Territory shall be plainly branded or marked with one uniform brand or mark. The cattle shall be so branded with the distinguishing ranch or road brand of the owner as to show distinctly in such place or places as the owner may adopt. Sheep shall be marked distinctly with such mark or device as may be sufficient to distinguish the same readily should they become intermixed with other flocks of sheep owned in the territory. Any such owner or owners, or person in charge of such drove, which may be driven into or through the Territory, who shall fail to comply with the provisions of this act, shall be fined not less than fifty (50) nor more than three hundred (300) dollars, at the discretion of the court.

SEC. 2. Any person desiring to use any brand shall make and sign a certificate, setting forth a *fac simile* and description of the brand which he desires to use, and shall file the same for record in the office of the county clerk of the county wherein he resides, which clerk shall record the same in a

book kept by him for that purpose, and from after the filing of such certificate the person filing the same shall have the exclusive right to use such brand within such county for the purpose aforesaid, And any person or persons so desiring may in the manner and with like effect, as herein provided, record his brand or mark in any county in the Territory into which his stock are liable to stray; *Provided*, that such mark or brand has not been heretofore recorded in such county by some other person; and if the clerk and recorder of any county shall for any persons record any mark or brand, there being at the time of such recording a similar living mark or brand upon the records of his county, such clerk and recorder shall be liable to pay a fine of not less than twenty (20) nor more than one hundred (100) dollars; *And provided further*, when two or more similar marks or brands have been heretofore recorded in any county, the oldest record shall entitle the owner to the exclusive use thereof in such county.

SEC. 3. Any stock grower of this Territory may adopt and use an ear mark, and such ear mark shall be taken in evidence in connection with the owner's recorded brand in all suits at law or in equity in which the title to stock is involved. Such ear mark shall be made by cutting and shaping the ear or ears of the animal so marked but in no case shall the person so marking the animal cut off more than one-half of the ear so marked, neither shall any one mark by cutting an ear on both sides to a point. No county clerk or recorder shall record the same ear mark to more than one person.

SEC. 4. In all suits at law or in equity, or in any criminal proceedings, when the title of any stock is involved, the brand on an animal shall be *prima facie* evidence of the ownership of the person whose brand it may be; *Provided*, that such brand has been duly recorded as provided by law. Proof of the right of any person to use such brand shall be made by a copy of the record of the same, certified to by the county clerk of that county or any county in which the same is recorded under the hand and seal of office of such clerk.

SEC. 5. If any person shall brand or mark, or cause to be branded or marked, with his, her, or their brand, or any other not the recorded brand of the owner, any animal being the property of another, or shall efface, deface, or obliterate any brand or mark upon any animal, any such person so offending shall be deemed guilty of larceny, and on conviction thereof

shall be confined in the penitentiary not less than one year nor more than five, as the court may direct, and shall also be liable to the owner thereof for three times the value of the animal so branded or marked, or upon which the brand or mark shall have been so effaced, defaced, or obliterated, and in no case shall the payment of the forfeiture herein mentioned entitle the person so branding, effacing, defacing, or obliterating a brand to the property in the animal so branded, or upon which the brand was effaced, defaced, or obliterated, but such animal shall be surrendered to the proper owner.

SEC. 6. When the stock of any resident shall intermix with any drove of animals, it shall be the duty of any drovers or persons in charge to cut out and separate such stock from said drove immediately, except in case of sheep and horses, when they shall be driven to the nearest suitable corral to be separated. Any person, either owner or drover, or otherwise connected with the management of such drove, who shall neglect to comply with the provisions of this section shall be fined in any sum not exceeding five hundred (500) dollars for every offense, and shall be liable to indictment for larceny.

SEC. 7. Any person or persons not being the owner or owners, or having the right of possession of any animal or animals, who shall be found driving or leading any such animal or animals from its or their usual range, such person or persons may be arrested by any constable, officer, or other person specially deputed for such purpose by a judge or justice of the peace, and such person or persons may be taken before any court of competent jurisdiction for examination and trial, and if found guilty shall be punished as for larceny. In prosecutions for a violation of the provisions of this section it shall not be necessary, in order to warrant a conviction, for the people to prove that the offense was committed knowingly or wilfully, or to show an intent, purpose, or motive on the part of the accused; but if it shall be shown that the accused had in his possession or under his control or supervision any animal so being led or wrongfully driven from its usual range as aforesaid, or that the accused assisted in so leading or driving away any such animal without having the right of possession thereof, as aforesaid, such showing shall be sufficient to warrant a conviction, unless the accused shall by testimony in his behalf explain the case made against him in such manner as to show good faith and an innocent purpose on his part.

SEC. 8. When the stock of any person in New Mexico shall be driven off its range without the owner's consent by the drover of any herd or drove, every person engaged as drover of such stock, or otherwise engaged in the care and management thereof, shall be liable to indictment and punishment as for larceny, and shall be liable for damages to the amount of two thousand (2,000) dollars together with all costs accruing in the trial of said cause, and said herd of stock or a sufficient number to cover all damages and costs shall be held liable for the same.

SEC. 9. Any person owning or having charge of any drove of cattle, horses, or sheep, who shall drive the same into or through any county of New Mexico, of which the owner is not a resident or land owner, and where the land in such county is occupied by settlers and ranchers, it shall be the duty of such owner or person in charge of such cattle, horses, or sheep to prevent the same from mixing with the cattle, horses, or sheep belonging to the actual settlers, and also to prevent said drove of cattle, horses, or sheep from trespassing on such lands as may be the property or be in the possession of the actual settler and used by him for the grazing of animals or the growing of hay or other crops, or from doing injury to ditches. If any owner or person in charge of any such drove of stock shall wilfully injure any resident of the Territory, by driving such drove of stock from the public highway and herding the same on lands occupied and improved by settlers in possession of the same, it shall constitute a misdemeanor, and shall be punished by a fine of not less than twenty-five or more than one hundred dollars, at the discretion of the court, and render the owner or person in charge of the drove so trespassing liable for the damages done to such settler.

SEC. 10. Any person or persons who may skin, or remove from the carcass, any part of the hide of any neat cattle found dead, without permission from the owner, shall be deemed guilty of larceny, and on conviction thereof shall be punished in the manner provided by law for the punishment of larceny; *Provided*, nothing herein shall be deemed to prevent the skinning of animals killed by railroad companies, by the employes of any railroad company by which such stock may have been killed.

SEC. 11. No person or persons, whether as principal or agent, shall hereafter sell or otherwise dispose of any neat

stock, nor shall any person, whether as principal or agent, buy, purchase, or otherwise receive any such stock, unless the person or persons so selling or disposing of any such stock shall give, and the person or persons buying, purchasing, or otherwise receiving any such stock, shall take a bill of sale in writing of the stock so sold, or disposed of, or so bought, purchased, or otherwise received, as the case may be, which bill of sale shall be witnessed by two witnesses residents of the county where sale is made.

First—When such stock or any part thereof is to be shipped from the Territory, or slaughtered by the purchaser, or when the said stock or any part thereof is to be, by such purchaser, sold to any other person or persons for shipment or slaughtering, or is to be by any such other person or persons offered for sale for shipment or slaughtering.

Second—When any such stock is to be driven, led, taken, or shipped to any market, range, or other place more than ten miles distant from the place of delivery thereof, upon any such sale or purchase, or when any such stock is to be led, driven, taken, or shipped to any market, range, or other place more than ten miles distant from the place where such stock may be herded, or kept, or permitted to range, at the time of the sale or purchase thereof, or to any market, range, or other place more than ten miles distant from the place where such stock may have been herded, kept, or permitted to range, for any portion of the three months next preceding such sale or purchase.

Third—When any such stock so sold or purchased, is at the time of such sale or purchase, or for any part of the sixty days next prior thereto, has been running at large upon an uninclosed range; but this provision shall not apply to sales of stock when the persons who sell are selling stock of which they have had actual and personal control and supervision daily for the said period of sixty days next prior to the sale thereof, and are rightfully entitled either as principal or agent to sell and dispose of the same.

SEC. 12. Any person who shall violate or fail to comply with any of the provisions of the last foregoing section shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in a sum of not less than twenty-five dollars nor more than five hundred dollars, or imprisoned in the county jail not less than thirty days nor exceeding six months, or may be

punished by both fine and imprisonment, in the discretion of the court.

SEC. 13. It shall be the duty of any person who may have purchased or received, or have in his possession any such stock, either for himself or for another, to exhibit, on reasonable request to any person inquiring therefor, the bill of sale of such stock, if in his power so to do, and if not in his power so to do, to state and give the reason therefor; and any person violating or failing to comply with the provisions of this section shall be deemed guilty and liable to punishment, as provided in the next preceding section.

SEC. 14. The provisions of the last three sections shall be liberally construed in favor of the people, and in order to convict of any offense made punishable in any of the said sections it shall not be necessary for the prosecution to prove knowledge, intent, purpose, or motive, on the part of the accused, but such knowledge, intent, purpose, and motive may be presumed when the wrongful act of the accused has been shown, and shall justify a conviction, unless the testimony in the case shall satisfactorily show the good faith and innocent purpose of the accused.

SEC. 15. Any person who shall steal, embezzle, or knowingly kill, sell, drive, lead, or ride away, or in any manner deprive the owner of the immediate possession of any neat cattle, horse, mule, sheep, goat, swine, or ass; or any person who shall steal, embezzle, or knowingly kill, sell, drive, led, or ride away, or in any manner apply to his own use any neat cattle, horse, mule, goat, sheep, ass, or swine, the owner of which is unknown; or any person who shall knowingly purchase from any one not having the lawful right to sell and dispose of the same, any neat cattle, horse, mule, sheep, swine, or ass, shall be deemed guilty of a felony, and on conviction thereof in any court of competent jurisdiction, shall be punished by imprisonment not less than one year nor more than five years, and by a fine not less than five hundred (500) dollars, nor more than five thousand (5,000) dollars, at the discretion of the court.

SEC. 16. All cases which are by this act declared to be larceny, and in all cases of felonious taking, stealing, riding, driving, leading, and carrying away of any animal or animals herein referred, the same shall be deemed and taken to be, and the courts of this Territory shall construe the same to be grand larceny, subjecting the offender or offenders to be condemned

to the penitentiary for a term of not less than one year nor more than ten years, except as otherwise provided for in this act, notwithstanding the value of such animal or animals may be less than twenty dollars.

SEC. 17. Any person or persons who may sell or offer for sale or trade any neat stock upon which such persons have not their recorded mark or brand, or for which the person so offering has neither bill of sale nor power of attorney from the owner of such stock authorizing such sale, every person so offering shall be deemed guilty of larceny, unless such person upon trial shall establish and prove that he was at the time the actual owner of the stock so sold or traded, or offered for sale or trade, or that he acted by the direction of one shown and proven to be the actual owner of such stock; and in prosecutions for a violation of this section it shall not be necessary in order to warrant a conviction for the people to prove motive, intent, or purpose on the part of the accused, or that the accused knew that the stock sold or traded or offered for sale or trade, was so sold, traded, or offered in violation hereof; but the fact of such selling, trading, or offering for sale or trade contrary to the provisions hereof, when proved, shall be sufficient to authorize a conviction, unless the accused shall by testimony explain the case made by the people in a manner consistent with good faith and innocent purpose.

SEC. 18. Every person before he shall set up and carry on the trade of a butcher or slaughterer of horned cattle in this Territory, shall file a bond, approved by the county commissioners, with the clerk of the county in which he desires to carry on the business, in a sum of not less than one thousand (1,000) dollars nor more than (5,000) dollars running to the people of the Territory of New Mexico, conditioned that he shall keep a true and faithful record, in a book kept for the purpose, of all cattle purchased or slaughtered by him, with a description of the animal, including marks, brands, age, weight, and from whom purchased, and the date thereof, and to keep the hide and horns of such animal free to the inspection of all persons for the period of thirty days after it is slaughtered.

SEC. 19. Every person who shall be found carrying on the business of butcher or slaughterer in this Territory without having filed the bond provided in the eighteenth section of this act, shall be deemed guilty of a misdemeanor and be fined in a sum not less than fifty nor more than one hundred dollars

for every day he shall carry on such business, to be recovered before any justice of the peace of the proper county or by indictment in the District Court.

SEC. 20. Every person who shall carry on the business of butcher or slaughterer of horned cattle, and shall fail to keep a true and faithful record, in a book kept for the purpose, of all cattle purchased or slaughtered by him, together with a description of each animal, including marks, brands, age, weight, and from whom purchased, and the date thereof, or fail to keep the hide and horns of such animal or animals for thirty days after such animal is slaughtered, shall be deemed guilty of a misdemeanor, and for each offense fined in a sum not less than ten nor more than one hundred dollars, to be recovered as provided in the nineteenth section of this act.

SEC. 21. The record provided for in this act shall be open to the inspection of all persons, and also the hide and horns, for the period of thirty days, and any butcher or slaughterer refusing to permit such inspection or examination shall be subject to a fine of not less than ten nor more than twenty-five dollars for each offense, to be recovered as provided in section nine teen of this act.

SEC. 22. All fines and penalties so recovered under this act shall be paid into the county treasury of the proper county, and the offender and his sureties shall be liable on the bond provided for in the eighteenth section of this act for all fines, penalties, and costs adjudged against him under the provisions of this act. Said bond may be sued on in the name of the people in any court of competent jurisdiction.

SEC. 23. Hereafter it shall not be lawful for any person to carry any fire arms or deadly weapons at any cattle round-up in this Territory, and any person violating the provision of this section shall be fined in any sum not less than twenty-five dollars nor more than one hundred dollars. Justices of the peace, as well as the District Court, shall have jurisdiction in all cases arising under this section.

SEC. 24. All laws and parts of laws in conflict with this [act] are hereby repealed.

SEC. 25 That this act shall take effect and be in force from and after the first day of May, A. D., 1884.

CHAPTER XLVIII.

AN ACT TO PROTECT THE HERDS OF SHEEP AND THOSE TAKING
CARE OF THE SAME. *Approved March 27, 1884.*

CONTENTS.

- SECTION 1. Disturbing or interfering with herds of sheep unlawful, when.
SEC. 2. Liability for damages; penalty.
SEC. 3. Joint liability of employers.
SEC. 4. Liability when person is injured or killed.
SEC. 5. Damages, how recovered.

WHEREAS, heretofore in many instances the owners of sheep have been injured and suffered from the owners of cattle who claimed the control of the public domain, to the exclusion of such sheep owners; and,

WHEREAS, for such purposes they employed, in many instances, irresponsible and desperate persons to carry out their unlawful designs, and inoffensive herders were in many instances killed by such employes; therefore.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. That it shall be unlawful for any person or persons in the Territory of New Mexico to disturb or interfere with any herd or herds of sheep, or to drive them or cause them to be driven away from any place where such sheep may be pastured or herded upon any lands, except such person be the owner of such lands, and provided he shall have distinctly marked out the boundaries of the same so that the same can be distinguished and known to be private land.

SEC. 2. Any person who shall violate the provisions of the foregoing section shall be guilty of a misdemeanor, and upon conviction before any justice of the peace or District Court be fined in the sum of one hundred dollars and imprisoned in the county jail for thirty days; and such person shall also be liable to the person or persons whose sheep were disturbed, interfered with, and driven away, for the damages which he or they may have sustained, and in addition to such damages which he or they may have sustained, he shall also pay the sum of five hundred dollars as exemplary damages, and such damages to

be recovered in an action of trespass brought in the District Court of any county of the judicial district in which such offense has been committed.

SEC. 3. In case any violation of any of the provisions of this act shall have been committed by any employé or herder of any person or persons, company or corporation, he, they, or it shall be liable for the acts of their said employé or herder to the person or persons injured in the same damages as provided in section two of this act.

SEC. 4. Any person who, in violating any of the provisions of this act, shall injure any person, herder, or employé, in in charge of any herd or employed in the same shall be liable to the party injured in such damages as the jury trying such cause may assess, and if any such person, herder, or employé, should be killed by any person in violating any of the provisions of this act, or who shall die in consequence of having received any injury as aforesaid, such person shall be liable to the executor, administrator, or widow of such deceased person, in the sum of five thousand dollars as fixed and liquidated damages, and provided also, that if such person committing such injury causing such death shall at the time be in the employ of or acting for any person or persons, company or corporation, he, they, or it, shall be liable jointly with, or separately, the person and wrongdoer to the party injured, his executors, administrators, or widow, in the damages as above provided.

SEC. 5. That the damages to be recovered under the foregoing section (4) shall be by an action on the case in any county of the judicial district in which the cause of action accrues.

SEC. 6. That this act shall take effect and be in force from and after the date of its passage.

CHAPTER XLIX.

AN ACT TO PREVENT THE INTRODUCTION OF DISEASED CATTLE INTO THE TERRITORY OF NEW MEXICO. *Approved March 19, 1884.*

CONTENTS.

SECTION 1. Driving and transporting diseased cattle unlawful.

- SEC. 2. Inspectors to be appointed, and duties.
- SEC. 3. Certificate to be given, when.
- SEC. 4. Term of office, fees and mileage.
- SEC. 5. Power to administer oaths.
- SEC. 6. Shippers and carriers liable.
- SEC. 7. Inspector may appoint deputy.
- SEC. 8. Notification to inspector.
- SEC. 9. Penalty for giving false certificate.
- SEC. 10. Penalty for violations of act.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. It shall be unlawful for any person or corporation to drive or transport, or cause or procure to be driven or transported into the Territory of New Mexico, any cattle which are, or within twelve months prior to their introduction into this Territory, have been affected with or exposed to any contagious or infectious disease; or which within such period have been driven or transported from or through any district of country where such disease was known to exist at the time of such driving or transporting; or without the certificate of the inspector of cattle as hereinafter provided being first obtained.

SEC. 2. The Governor shall appoint, at such convenient points as he may deem proper within the Territory and as near as possible to the frontier, inspectors of cattle, whose duty it shall be to inspect all cattle destined for introduction into the Territory, and to ascertain whether any of such cattle are, or have been infected with, or exposed to any contagious or infectious disease, or have been driven or transported from or through any district of country where such disease was known to exist as mentioned in section one of this act, and for this purpose he may require affidavits of the persons in charge of such cattle, as to all the facts connected with their driving or transporting.

SEC. 3. If upon such inspection and investigation, such inspector shall be satisfied that such cattle are free from contagious or infectious disease, and are otherwise proper to be admitted under the provisions of section one of this act, he shall give to the person in charge of such cattle a certificate to this effect, and if not so satisfied he shall refuse to give such certificate.

SEC. 4. The said inspectors shall hold their offices during the pleasure of the Governor and shall be entitled to receive one dollar per head for all high-grade or thoroughbred cattle

inspected, and twenty cents per head for all other cattle inspected, not exceeding 1,000 head at one time, and for any excess above 1,000 in the same herd or lot, ten cents per head, and ten cents per mile for the distance necessarily traveled in going from their usual place of abode to the place of inspection; such fees and mileage to be paid by the owner of the cattle before the delivery of the certificate of inspection, and in case a certificate is not given they may be recovered by the inspector from the owner in a civil action.

SEC. 5. For the purpose of taking the affidavits mentioned in section two of this act, the inspector shall have power to administer oaths, and any person who shall swear falsely in such affidavit shall be deemed guilty of perjury.

SEC. 6. The provisions of this act shall apply to shippers and carriers as well as owners of cattle, and the certificate of the inspector shall not relieve them from liability, either criminal or civil, for the introduction of cattle contrary to the provisions of section one of this act.

SEC. 7. The inspector may appoint a deputy, who may act in his absence.

SEC. 8. Every person having in charge cattle destined for introduction into this Territory, whether as owner or carrier, or as agent of either, shall, at least ten days beforehand, notify the inspector nearest the proposed point of entrance to the Territory of the time and place, when and where such cattle will be ready for inspection, which place shall be beyond the boundary line of the Territory, and he shall hold the cattle at the place so designated until inspected.

SEC. 9. Any inspector who shall knowingly give a false certificate, or shall, without good cause under this act, refuse to give a certificate of inspection, or shall wilfully delay in making inspection when notified, shall be deemed guilty of a misdemeanor and shall be liable to the injured party for damages arising from such refusal or delay.

SEC. 10. Any person or corporation who shall violate the provisions of section one of this act, shall be punished by a fine of \$5,000 for each offense, to be imposed by the court on conviction upon indictment or information, or to be recovered as a penalty by the Territory in a civil action; and shall also be liable for all damages resulting therefrom. Each lot or herd of cattle unlawfully brought into the Territory shall constitute a separate offense.

SEC. 11. This act shall take effect from and after its passage.

CHAPTER L.

AN ACT FIXING A BOND FOR THE INSPECTORS OF CATTLE. *Approved April 1, 1884.*

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. That the inspectors appointed under the provisions of an act entitled an act to prevent the introduction of diseased cattle into the Territory of New Mexico, shall and hereby are required to give a bond to the Territory, to be approved by the Governor, in the penal sum of five thousand dollars, for the faithful discharge of the duties pertaining to such office; *Provided*, any person damaged by any improper or malicious action of any one of said inspectors may bring an action therefor in the name of the Territory against said inspector, and his sureties on his official bond, and shall recover thereon the amount of such damage not exceeding the penalty of said bond.

SEC. 2. This act shall take effect and be in force from and after its passage.

CHAPTER LI.

AN ACT WITH REFERENCE TO AN ACT ENTITLED, "AN ACT TO PREVENT THE INTRODUCTION OF DISEASED CATTLE IN THE TERRITORY OF NEW MEXICO," [SUSPENDS OPERATION OF SAID ACT] APPROVED MARCH 19, 1884. *Approved April 3, 1884.*

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

That the Governor of the Territory of New Mexico is hereby

authorized, whenever in his judgment the circumstances and public interest warrants and requires him to do so, from time to time, to suspend by proclamation the operation of an act entitled "An act to prevent the introduction of diseased cattle in the Territory of New Mexico," approved March 19, 1884, or by proclamation to put the same in force at any time when suspended that he may believe the circumstances or public interest require said act to be in force. Said act is hereby suspended in its operation and effect from this date until the same may by the Governor be placed in operation and effect by his proclamation to that end.

This act shall be in full force and effect from and after its passage.

CHAPTER LII.

AN ACT TO REPEAL AN ACT ENTITLED AN ACT TO PROHIBIT THE INTRODUCTION OF ANIMALS WITHIN CERTAIN LIMITS, APPROVED FEBRUARY 2, 1860. *Approved April 1, 1884.*

CONTENTS.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. That sections thirty, thirty-one and thirty-two of the above act be and the same are hereby repealed, but such repeal shall not apply to the counties of San Miguel and Santa Fe.

SEC. 2. This act shall take effect and be in force from and after its passage.

CHAPTER LIII.

AN ACT ESTABLISHING PUBLIC SCHOOLS IN THE TERRITORY OF
NEW MEXICO. *Approved March 31, 1884.*

CONTENTS.

- SECTION 1. Appointment of Superintendents; per diem.
SEC. 2. School district directors; election.
SEC. 3. Superintendent of schools to file director's and other reports.
SEC. 4. Shall prepare report for publication; contents.
SEC. 5. Shall have an office, keep records and deliver same to successor.
SEC. 6. Official oath or affirmation and filing of same.
SEC. 7. Shall apportion school fund and draw orders; proviso.
SEC. 8. Formation of school districts; boundaries.
SEC. 9. Penalty for neglect of duties.
SEC. 10. School districts by precincts; branches to be taught.
SEC. 11. To be body corporate; name and style.
SEC. 12. Title of lands and property, how held.
SEC. 13. New districts may be formed, how.
SEC. 14. Election of school directors; term and oath of office.
SEC. 15. Director's meetings and organization; treasurers to give bond; form.
SEC. 16. Quorum; vacancies, how filled.
SEC. 17. School houses and furnishing, how provided; tax levy and collection; enumeration of pupils; school age; employment of school teachers under restrictions; treasurer's report and contents; penalties.
SEC. 18. Taxes for school purposes and disbursements.
SEC. 19. School directors to adopt text books and examine teachers. Unlawful payment of teacher's wages, treasurer liable.
SEC. 20. Vacancy in office of Superintendent, how filled.

*Be it enacted by the Legislative Assembly of the Territory of
New Mexico.*

SECTION 1. The county commissioners shall appoint one superintendent of schools for each county of the Territory, who shall hold their office until their successors are elected at the next succeeding election and qualified, and said superintendent shall receive from the county treasurer the sum of five dollars for every day actually and necessarily employed in his duties, to be audited and allowed by the board of county commissioners upon a statement of account verified by affidavit; *Provided*, that the superintendent shall receive pay for no more than five days in each year for each school district in this county.

SEC. 2. He shall, within one month after his appointment and qualification, or as soon thereafter as practicable, call public meetings in each of the school districts already established

by causing notices to be posted in the most public places thereof at least ten days prior to such meeting. At such meeting a chairman and a secretary shall be elected, after which an election shall be held for three school directors to serve until the next succeeding general election. The voting shall be by ballot, and the result of such election shall be forwarded by the secretary to the county superintendent.

SEC. 3. It shall also be his duty to visit each district at least once a year, and as much oftener as consistent with the discharge of his other duties, for the purpose of awakening an interest in the cause of education throughout the county. He shall file and carefully preserve in his office the official reports made to him by the district directors of the several districts, trustees, or directors, of academies, graded schools, or colleges, and file certified copies of the same in the county clerk's office.

SEC. 4. He shall prepare in each year a report for publication, bearing date of the last day of December, containing: *First*—A statement of the number of common schools in the county; the number of scholars attending the same, their sex and the branches taught; statement of the number of private and select schools in the county, so far as the same can be ascertained, and the number of scholars attending the same, their sex and branches taught; the number of academies and colleges in the county and the number of students and their sex attending them, and such other matters of interest as he may deem expedient, drawn from the reports of the district directors of the several districts in the county.

SEC. 5. He shall have an office at his place of residence where shall be kept all books and papers appertaining to the business of his office, copies of all papers filed in his office, and his official acts may be certified by him, and when so certified, shall be entered equally and in like manner as the original papers, and he shall deliver to his successor within fifteen days after the expiration of his term of office all books, papers, documents, and other property belonging to his office.

SEC. 6. The county superintendent of schools shall have charge of the common school interests of the county. He shall, before entering upon the discharge of the duties of his office, take and subscribe to an oath or affirmation to support the constitution of the United States and of the laws of the Territory of New Mexico, and faithfully to discharge the duties of his

office, which oath or affirmation shall be filed in the office of the county clerk.

SEC. 7. He shall, also, on the third Monday in June and December of each year apportion the county school funds to the various districts in proportion to the number of school children residing therein over the ages of five and under twenty years, and shall certify such apportionment to the county treasurer, and shall draw his order on the county treasurer in favor of the several district treasurers for the amount apportioned to each district; *Provided*, no district shall be entitled to receive any portion of the school fund in which a common school has not been taught at least three months during the year.

SEC. 8. Whenever a school district shall be formed in any county, the county superintendent of such county shall, within fifteen days thereafter, prepare notice of the formation of such district, describing its boundaries and stating the number thereof, and appointing a time and place for the first district meeting, and posting notice at least ten days before the date of the same.

SEC. 9. Every county superintendent who shall neglect or refuse to make out and file his annual report as required by this act within the time limited therefor, shall be deposed by the county commissioners, who shall appoint a successor for the balance of the term. He is also required to furnish the county clerk with the description and boundaries of each school district as soon as practicable after the same are formed.

SEC. 10. Each of the voting precincts of a county shall be and constitute a school district, in which shall be established one or more schools, and in which shall be taught orthography, reading, writing, arithmetic, geography, grammar, and the history of the United States, in either English or Spanish, or both, as the directors may determine.

SEC. 11. That each school district shall be a body corporate by the name and style of, "School District No.—— of the County of——," and by such name may contract and be contracted with, sue and be sued, in any of the courts of this Territory having competent jurisdiction.

SEC. 12. That every such district shall hold in the corporate name of the district the title of lands and other property

which may be acquired by said district for such school district purposes.

SEC. 13. That a new school district may be formed, or the boundaries of any district changed, by the county superintendent on petition of not less than ten heads of families residing within the proposed district, and each having children of lawful age to attend school under this act; *Provided*, there be at least twenty children residing *bona fide* in such proposed district between the ages of five and twenty years; and *Provided*, also that the district or districts from which the same be taken, whole or in part, be not so reduced that there shall not either one thereof remain with less than twenty children therein between the ages of five and under twenty years.

SEC. 14. On the day of general election there shall be elected in each school district, by the legal voters thereof, three school directors, who shall hold their office for two years from the day of their qualification, or until their successors are elected or appointed and qualified, in each organized school district. Such directors shall be legal voters in their respective districts. Within ten days from their election the school directors shall take and subscribe an oath before any officer competent to administer the same, that they will honestly and faithfully discharge the duties of the office of school directors, which oath shall state the number of the school district, the proper county, and shall be forwarded to the county superintendent.

SEC. 15. The school directors in each district shall hold a meeting within five days after their qualifications, and at such meeting shall appoint a chairman, a clerk, and another member district treasurer. The treasurer shall, before entering upon the duties of his office, give bond in [a] sum equal to double the probable amount of money that may come into his hands, as may be fixed by a justice of the peace of his district, with two sureties, who shall qualify under oath in double the amount stated in said bonds; said bonds shall be filed with the county treasurer. The said bonds shall be in the following form, the blanks to be filled by the person appointed treasurer, and his sureties, and with the number of the school district and the name of the county in which the school district is situated and the amount of said bond.

FORM OF BOND.

Know all men by these presents, that whereas, A. B. has been appointed treasurer in school district No. —, in the county of —, in the Territory of New Mexico, we, the said A. B., as principal, and C. D. and E. F. as sureties, are jointly and severally held and firmly bound unto the Territory of New Mexico in the sum of — dollars, to be levied upon our goods and chattels, lands and tenements, if default be made in the following condition: The condition of this obligation is such, that if the said A. B., as treasurer of school district No. —, in the county of —, in the Territory of New Mexico, shall well, and truly pay over, and account according to law for all moneys coming into his hands as such treasurer, then this obligation shall be null and of no effect; otherwise to be and remain in full force and virtue in law. Suits in said bond shall be prosecuted in the name of the Territory in the district court of the proper county, and the moneys recovered therein shall be paid into the county treasury, and shall be expended wholly for school purposes in the school district where such delinquency occurred, and it shall be the duty of the county treasurer, to promptly place such bonds in the hands of the proper prosecuting officer whenever any district treasurer shall be in default. It shall be the duty of the court, whenever judgment is rendered on any such bonds, to award to the prosecuting officer a fee of ten per cent. upon the amount recovered, which shall be collected in execution against the principal and sureties on such bonds the same as other judgments.

SEC. 16. Two school directors shall constitute a quorum, and shall be competent to discharge all the duties of a full board, but should a vacancy occur from any cause, notice shall be given the county superintendent of the proper county by the directors, or a director, and thereupon said county superintendent shall appoint to fill such vacancy until the next election.

SEC. 17. The school directors of the several districts shall have power and they are hereby required to provide as soon as practicable proper school houses, school house sites, and sufficient fuel for the schools established by this act, and to pay teachers' wages. The assessor of each county shall be empowered to levy a tax not to exceed three mills on the dollar, in any one year, on the taxable property of the county for the purpose of creating a fund which shall be applied to the various

districts according to apportionment, for the erection of school houses, and providing the same with furniture and fuel, and paying of teachers' wages. The legal proceedings for the collection of this tax shall be the same as those provided for the collection of taxes due the Territory. This tax shall be collected in the same manner as other taxes are now collected in the Territory. The directors of the several school districts shall also employ and pay school teachers under the restrictions imposed by this act, and shall have the general control of and management of the schools in their respective districts, subject to such supervision as shall herein be conferred upon the county superintendent. The directors in the several school districts in the Territory shall, on or before the first day of October of each year, make an enumeration of all unmarried persons, resident in their respective districts, between the ages of five and twenty years, giving the names and ages of such persons in full, and report the same in writing, and which shall be signed by all the directors, to the county superintendent within fifteen days thereafter. All residents, unmarried persons, between said ages shall be entitled to attend and be taught in the schools of their districts in the branches and for the time prescribed by this act. The treasurers of the several school districts shall, on or before the first day of December of each year, make a report to the county superintendent in writing, showing the amount of money received and expended for school houses, school-house sites, and fuel, and the amount paid teachers within the previous twelve months. Any school director or district treasurer who shall refuse or fail to make any report required by this section, shall be deemed guilty of a misdemeanor, and on conviction before the District Court of the proper county shall be fined in a sum not exceeding one hundred dollars, or imprisoned in the county jail for a period not exceeding three months, in the discretion of the court, and the sureties on the official bond of the district treasurer shall be liable in any fine imposed on such treasurer.

SEC. 18. It shall be the duty of the county treasurer to retain in his possession all taxes collected for school purposes, and to pay out the same to the district treasurers according to the apportionment on order of the county superintendent.

SEC. 19. It shall be the duty of the school directors to adopt text books in either English or Spanish, or both, and when adopted shall not be changed for a period of five years.

It shall also be their duty to examine or cause to be examined each applicant to teach, and if found duly qualified shall issue a certificate of qualification, a copy of which shall be forwarded to the county superintendent. Any school district treasurer who shall pay any teacher any money until the requirements of this section are complied with, shall be deemed guilty of a misdemeanor and subject to a fine in double the amount of the money so paid, or to imprisonment for a period not exceeding thirty days, and such treasurer and the sureties on his official bond shall be liable for the payment of such fine.

SEC. 20. Any vacancy that may occur in the office of the county superintendent by death, resignation, or otherwise, shall be filled by the county commissioners, and the person so appointed shall hold his office until the next succeeding election.

SEC. 21. All laws and parts of laws for levying and collecting taxes for school purposes, and all laws and parts of laws relating to public schools in the Territory of New Mexico, or the expenditure of moneys for schools are hereby repealed, and this act shall take effect and be in force from and after its passage.

CHAPTER LIV.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT ESTABLISHING PUBLIC SCHOOLS IN THE TERRITORY OF NEW MEXICO," APPROVED MARCH 31, 1884. *Approved April 3, 1884.*

CONTENTS.

SECTION 1. Reports to be made by Superintendent; penalty for neglect.

SEC. 2. Auditor to consolidate reports and have published.

SEC. 3. Reports to be made to Governor and Legislative Assembly.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. That the superintendent of schools in each county of the Territory shall forward to the Auditor of the Territory a certified copy of every report required to be made by the act, entitled "An act establishing public schools in the

Territory of New Mexico," and approved March 31st, 1884, within thirty days from the time such report is made, and for failure or refusal to comply with the requirements of this section any derelict superintendent shall be summarily removed by the board of county commissioners of the proper county, and the vacancy filled in accordance with the provisions of said act approved March 31st, 1884.

SEC. 2. The Auditor shall consolidate said reports so as to show the number of children eligible to be taught in the public schools in each county, their ages and sexes, the number of schools and average daily attendance in each county, the money expended in paying teachers, in building school houses, and in procuring sites, and for fuel, in each county, and to make a summary of the facts stated in the reports of the several county superintendents so as to show the results and condition of the public schools in each county, and cause the same to be published in four newspapers, published and of general circulation in the Territory and in such localities as will most fully furnish information to the people.

SEC. 3. At the commencement of each session of the Legislature the Auditor shall forward all his consolidated reports to the Governor, who shall transmit them promptly to the Legislative Assembly.

SEC. 4. This act shall take effect and be in force from and after its passage.

CHAPTER LV.

AN ACT FOR THE ESTABLISHMENT OF AN ORPHAN HOME AND INDUSTRIAL SCHOOL FOR THE TERRITORY OF NEW MEXICO.
Approved April 3, 1884.

CONTENTS.

SECTION 1. How constituted; legal designation.

SEC. 2. Board of Supervisors, how constituted.

SEC. 3. Duties defined.

SEC. 4. Children to be cared for, how; compensation.

SEC. 5. Expenses how provided for and how paid.

SEC. 6. Duties of Probate Judge and Sisters of Charity.

SEC. 7. Itemized statement to be presented to next Legislative Assembly

WHEREAS, the advancement and prosperity of this Territory are largely dependent upon the education of its people; and,

WHEREAS, there are within its limits numerous orphans and other indigent children without home influences, or moral protection, and destitute of the means of education and decent livelihood, and, .

WHEREAS, the same children, if left to ignorance, destitution, and misery would become elements of serious evil in our midst, and entail great public expense in the prevention and suppression of crime, will, if protected and fostered, become a source of wealth, intelligence, and moral support to the commonwealth; Therefore,

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. From and after the passage of this act the Asylum of the Sisters of the Charity of Santa Fe shall be constituted an Orphans' Home and Industrial School for the care, support, and education of the orphan and indigent children of the Territory of New Mexico, and to be known and legally designated as the "Orphans' Home and Industrial School of the Territory of New Mexico."

SEC. 2. The Governor of the Territory of New Mexico, His Grace, the Most Reverend Archbishop of Santa Fe, and Hon. Mariano S. Otero, of Bernalillo, are hereby declared a board of supervisors for the said Orphan's Home and Industrial School, and qualified to act as such by virtue of this act, and who shall serve as such board of supervisors for the term of two years, and until their successors shall be appointed by the Legislature; but in case of a change meanwhile in the office of Governor, the Governor succeeding shall immediately become a member of such board, and in case of the death, resignation, absence, removal, or inability to act, of any one member of said board, the remaining two shall constitute a full board until the appointment of a new member or the reappearance or re-qualification of the third member as the case may be. It shall be the duty of said board of supervisors to receive and approve all applications for admission to said Orphan's Home and Industrial School, to pass upon, examine and audit all accounts for the proper carrying on said institution, and issue vouchers therefor, to visit the said institution from time to time and faithfully look after the moral and intellectual progress of its inmates.

SEC. 3. The said Orphan's Home and Industrial School shall be under the care, charge, control, and custody of the sisters of charity of Santa Fe, subject to the general supervision of the board of supervisors hereby created and to all orders issued by said board.

SEC. 4. The said sisters of charity, under whose care, custody, and control said orphans and indigent children of the Territory are hereby placed, are to board, clothe, and instruct said children in the common school branches, and shall receive as compensation therefor the sum of ten dollars per month for each of said children so boarded, clothed, instructed, and cared for.

SEC. 5. The costs, charges, and expenses which shall be incurred by the said board of supervisors hereby created from time to time, shall be met and defrayed out of the territorial treasury upon the written order of the said board, signed by a majority of its members; but if at the time of the presentment of any such orders for payment there shall not be in the territorial treasury funds appropriated sufficient to pay the same, the proper fiscal officers of the Territory are hereby empowered and directed from time to time, and in the proper amounts, to make, issue, and deliver territorial warrants in lieu of cash payment of such orders, which warrants shall be deemed payment of the orders for which they shall be so issued, and shall be payable out of the first moneys applicable to that purpose.

SEC. 6. It shall be the duty of the probate judges in the several counties to place all orphan and indigent children with some good and responsible person, who will agree to care for, educate, and learn them to work for a certain number of years to be agreed upon, and it shall also be the duty of said sisters of charity also to use their best endeavors in like manner to place such children in families for the same person; [purpose] *Provided however*, that not more than five thousand dollars shall be expended in any one year of twelve months for the purposes of this act; *Provided*, ten children may be kept at Bernalillo, but under the direction of the sisters at Santa Fe.

SEC. 7. The board of supervisors herein provided for shall present to the next Legislative Assembly a detailed statement of the transactions of such board, embracing an itemized account of the expenses of the said Orphan's Home and Industrial

School; also the number of children, their names, age, and former place of residence.

SEC. 8. This act shall take effect immediately from and after its passage.

CHAPTER LVI.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO PROVIDE MEANS OF DEFENSE AGAINST HOSTILE INDIANS," APPROVED JANUARY 17, 1880. *Approved April 1, 1884.*

CONTENTS.

SECTION 1. Limits expenditures.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. That the proviso in section ten of an act entitled an act to provide means of defense against hostile Indians, approved January 17th, 1880, be and the same is hereby amended so as to read as follows: "*Provided, however, that the expenditures under this act shall not exceed the sum of five thousand dollars in any one year without a specific appropriation by the Legislative Assembly therefor.*"

SEC. 2. This act shall take effect and be in force from and after its passage, and all laws and parts of laws in conflict herewith are hereby repealed.

CHAPTER LVII.

AN ACT TO DISPOSE OF UNSERVICEABLE ORDNANCE AND ORDNANCE STORES. *Approved March 6, 1884.*

CONTENTS.

SECTION 1. Authorizes sale; notice by publication.

SEC. 2. Proceeds, how applied.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. That the Adjutant General of the Territory is hereby authorized and directed to cause all the Austrian muskets and bayonets now in the possession of the Territory, together with all other ordnance and ordnance stores that are out of date and unserviceable, to be sold at public auction to the highest bidder for cash, first having given public notice of the time and place of such sale by advertisements published at least thirty days in a newspaper in each of the following towns, viz: at Las Cruces, Socorro, Albuquerque, Deming, Santa Fe, Las Vegas, and Raton.

SEC. 2. The proceeds of such sale to be applied to the payment of the costs of making the same, including such advertising, and the remainder to be turned over to the territorial treasurer for the use of the Territory.

SEC. 3. This act to take effect and be in force from and after its passage.

CHAPTER LVIII.

AN ACT TO PROVIDE FOR THE ERECTION OF CAPITOL BUILDING IN THE CITY OF SANTA FE. *Approved March 29, 1884.*

CONTENTS.

- SECTION 1. Building committee, how constituted; powers.
- SEC. 2. General powers of the majority of committee.
- SEC. 3. Contracts to be let, how and when; bonds required.
- SEC. 4. Notice to be given; to be let to lowest responsible bidder.
- SEC. 5. Authorizes bonded indebtedness; limitations.
- SEC. 6. Designation of bonds; contents.
- SEC. 7. Tax levy and collection; proceeds, how disposed of; investment of sinking fund; reports required.
- SEC. 8. Tax levy for 1884; Auditor to make.
- SEC. 9. Cancellation of redeemed bonds.
- SEC. 10. Form of bonds, how prescribed; to be sold for cash; disposition of proceeds.
- SEC. 11. Vacancies in committee; how filled.
- SEC. 12. Compensation of commissioners.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION. 1. The Governor of the Territory, and his suc-

cessor in office, Mariano S. Otero, Narciso Valdez, W. L. Rynerson, José Montaña, Antonio Abeytia y Armijo, Roman A. Baca, Vicente Mares, John C. Joseph, Cristobal Mares, Lorenzo Lopez, Rafael Romero and A. S. Potter, are hereby constituted a capitol building committee to contract for and superintend the erection of capitol buildings for the Territory of New Mexico, to be erected at Santa Fe, with powers to procure necessary grounds therefor, and to let contracts for the erection of such buildings in such manner as to them may seem to the best interest of the Territory, letting the same in one entire contract, or portions thereof to different contractors, as their judgment may direct.

SEC. 2. Said committee shall have power to do any and all things necessary in the construction of said buildings; *Providing however*, that no contract shall be made, or be binding upon the Territory, that shall not be signed and executed by a majority of said committee.

SEC. 3. Before letting any contract for the furnishing of any material for or the performance of any labor upon said building to any contractor, it shall be the duty of said building committee to adopt certain plans and specifications, prepared by competent architects, giving the estimated cost of said proposed buildings, and all contract[s] shall be let with the view of the erection of said buildings according to said plans and specifications; and before any contract for the erection of the entire buildings, or for the furnishing of any material, or the performance of any portion of the work, let separately, it shall be the duty of said committee to take good and sufficient bonds from the contractor or contractors for the faithful performance of said work.

SEC. 4. That no contract shall be let for the furnishing of the material or any portion of the material used in the erection of said buildings, or for the construction thereof, until [the] committee shall have given sixty days notice in one weekly newspaper, published in Santa Fe, Las Vegas, Albuquerque, Mora, Silver City, Denver and St. Louis, each, of the intention to purchase such material and let such contract; and all contracts shall be let to the lowest responsible bidder or bidders, who will give good and sufficient bonds with two or more sufficient sureties for the fulfillment thereof according to the terms of the contract.

SEC. 5. That for the purpose of the erection of said build-

ings there is hereby created a bonded indebtedness on behalf of the Territory of New Mexico to the amount of two hundred thousand dollars, the bonds representing said indebtedness being due and payable in twenty years from the date of issue and to bear interest at a rate not exceeding seven per cent. per annum, to be issued as follows: in the year 1884, bonds to the amount of one hundred thousand, and each year thereafter an additional one hundred thousand, until the entire amount shall have been issued. Said bonds shall consist of two hundred bonds of the denomination of one thousand dollars each, the said bonds to be sold at not less than their par value, and the proceeds thereof to be used in the erection of said territorial capitol buildings in the city of Santa Fe.

SEC. 6. The bonds issued under this act shall be known as "capitol building bonds," and shall be signed by the Governor of the Territory, countersigned by the Territorial Treasurer, and attested by the Secretary of the Territory, who shall affix the great seal of the Territory to each bond. They shall be numbered and registered in a book kept for that purpose by the Territorial Treasurer in the order in which they are issued; each bond shall state upon its face the amount for which the same is issued, to whom issued, for what purpose issued, the date of the issuance, and the title of this act under which the issue is made, and the text of the said act shall be printed on the reverse side of each bond.

SEC. 7. Whenever any bonds are issued as provided in this act, it shall be the duty of the assessors in the different counties of this Territory, upon notice from the Territorial Auditor of the amount required for that purpose, to levy and assess a special tax on all of the taxable property in the Territory, to fully discharge the half yearly interest accruing on said bonds, which tax, when collected, shall be paid into the territorial treasury to the credit of the interest paid on capitol building bonds, and for the ultimate redemption of said bonds they shall levy annually, after fifteen years from the date of the issuance of the bonds issued in the year 1884, such tax upon all the taxable property in the Territory as shall create a yearly fund equal to twenty per cent. of the whole amount of the bonds issued, which fund shall be called "capitol building bond sinking fund;" and all taxes for interest on and for the redemption of such bonds shall be levied and be collected as other territorial taxes, and shall be paid into the territorial treasury in

cash only. The proceeds thereof shall be kept by the Territorial Treasurer as special and distinct funds under their respective heads, to be used in payment of interest on and for the redemption of such bonds only, or for their purchase as herein-after provided, and for no other purpose whatever; *Provided*, that whenever any surplus remains to the credit of the "interest fund," after the full payment of the interest maturing in any year, the said building committee shall cause such surplus to be transferred to the credit of the "capitol building bond sinking fund." All moneys belonging to the sinking fund may be invested by the said committee in registered bonds of the United States, or they may be applied by the said committee to the purchase on behalf of the Territory of such of the capitol building bonds as may be obtainable, as in the judgment of the said committee may best serve the interest of the Territory. The said committee shall, whenever called upon, report to the general assembly the condition of the said sinking fund, the amount of the same, and how invested.

SEC. 8. It shall be the duty of the Territorial Auditor to immediately make an estimate of the amount of taxes required to be levied and collected in each county in the Territory in order to raise the sum of seven thousand dollars, and he shall immediately notify the county collectors of the amount to be collected in their respective counties, whose duty it shall be to levy the amount to be collected with the taxes of 1884, and paid into the territorial treasury as a separate fund for the purpose of paying the coupons representing the first year's interest accruing upon the bonds issued under this act during the present year.

SEC. 9. When any of the bonds issued under this act are purchased or redeemed, it shall be the duty of the said committee to cancel the same so that they can be plainly identified, and cause a record of such cancellation to be made on the bond registry books of the Territorial Treasurer and the Territorial Auditor.

SEC. 10. The said committee shall be authorized to prescribe the form of the bonds to be issued under this act and the coupons thereto, and when such issue is made as hereinbefore provided, the said committee shall be authorized to dispose of the same for cash and deposit the proceeds thereof with the Territorial Treasurer to the credit of the capitol building fund, to be used in aid of the erection of the capitol buildings for the

Territory of New Mexico in the city of Santa Fe, to be drawn from the Treasury by order of the said building committee.

SEC. 11. In case of a vacancy occurring in the capitol building committee, occasioned by death, resignation, removal from the Territory, refusal to act, or for any other cause, such vacancy shall be filled by the remaining members of the committee.

SEC. 12. That the members of said building committee shall each receive the sum of five dollars per day and no more for each day of actual service when attending the sessions and business of said committee.

SEC. 13. This act to take effect from and after the date of its passage.

CHAPTER LIX.

AN ACT AUTHORIZING THE BUILDING OF A PENITENTIARY IN THE TERRITORY OF NEW MEXICO, AND REGULATING ITS MANAGEMENT. *Approved March 14, 1884.*

CONTENTS.

- SECTION 1. Board of Managers, how constituted; records.
- SEC. 2. Selection of site; employment of laborers, and purchase of materials.
- SEC. 3. Convicts to be sent, when; power to contract labor. When convicts may be removed from other states.
- SEC. 4. Proceeds of convict labor, how to be used.
- SEC. 5. Warden, how appointed; proviso.
- SEC. 6. Shall give bond, and take and file official oath.
- SEC. 7. May be removed for cause; how.
- SEC. 8. Board of Managers to make rules and regulations and approve appointments.
- SEC. 9. Warden's office; contingent fund and salary.
- SEC. 10. Deputy Warden and Chief Clerk provided for; salaries.
- SEC. 11. Power of Warden to make contract; limitations.
- SEC. 12. To buy supplies and sell products.
- SEC. 13. Meetings to be held; proceedings; rules to be adopted.
- SEC. 14. Reports, by Warden and Managers.
- SEC. 15. Authorizes issue of bonds, form and character.
- SEC. 16. Who shall sell bonds; limitations.
- SEC. 17. Proceeds, how disposed of.
- SEC. 18. Tax levy and collection; provisions as to sinking fund; cancellation of bonds; reports required.

Be it enacted by the Council and House of Representatives of the Territory of New Mexico.

SECTION 1. That the Governor, Attorney General, and Treasurer of the Territory of New Mexico, be and they are hereby created and constituted a board of managers of the penitentiary, with such powers and duties as are conferred and imposed by this act. The Governor shall be president of the board, and a majority thereof shall exercise the powers and discharge the duties as fully as the whole board, but no act shall be valid unless concurred in by two members. The board shall keep a record of their acts, and for that purpose the Treasurer shall be secretary.

SEC. 2. The board of managers shall have power and it is hereby required, as soon as practicable, to procure by purchase or otherwise, for and on behalf of the Territory, the necessary grounds for the site, and to select and designate the place for the erection of a penitentiary. The selection shall be made with reference to its accessibility, and the advantages offered for the profitable employment of convict labor, and shall be as central as is practicable. The board of managers shall have power, and it is hereby required to procure materials, employ a superintendent and laborers, and to do all other acts and things that may be necessary to construct a penitentiary as early as possible, or the board may enter into contracts with a private party or parties for the construction of the penitentiary or any part thereof.

SEC. 3. Whenever, in the opinion of a majority of the board, the work of construction has proceeded so far as to insure safety from escape, and suitable quarters for convicts, all persons sentenced to labor as a punishment for crime may be sent to such penitentiary and put to work in the further construction thereof, or they may be assigned to any other work as may be found to be practicable. The board of managers shall have power, whenever it is deemed advisable, to authorize contracts to be made with any private party or parties for the employment of such convict labor in or upon the penitentiary, or quarries and mines, upon railroads, and upon other public or private works outside of said penitentiary under such regulations as will secure them proper treatment and from escape, and as will be to the greatest pecuniary advantage to the Territory. Whenever the board of managers shall determine

that it is safe and best to confine convicts in said penitentiary, and to employ their labor as above specified in this section, the Governor shall announce such fact by proclamation, and thereafter the courts of the Territory shall, when any person is convicted of a crime punishable by imprisonment at hard labor, sentence such person to said penitentiary. And as soon thereafter as any contract with the authorities of any State or Territory for the custody and maintenance of the prisoners of this Territory has expired, it shall be the duty of the Governor to cause the prisoners confined in the penitentiary of another State or Territory, to be removed to the penitentiary authorized by this act to be constructed, and for that purpose he may appoint an agent or agents, and sufficient guards, and to pay the expenses of such removal out of the territorial funds.

SEC. 4. All moneys received for the labor of convicts shall be placed in the Territorial treasury and credited to the penitentiary fund, and wholly expended in constructing, enlarging, furnishing, and repairing said penitentiary, and in paying the cost of keeping and maintaining the prisoners therein.

SEC. 5. The Governor shall nominate, and by and with the consent of the Legislative Council, appoint a warden of the penitentiary who shall be a resident and citizen of the Territory of New Mexico, and who shall be appointed for the term of two years, and until his successor is appointed and qualified. In case of failure by the Council to confirm any person nominated by the Governor during a session of the Legislature, the Governor may appoint a warden, who shall hold his office until the close of the next succeeding legislative session unless sooner removed by the board of managers; *Provided*, that no person shall be appointed who has been rejected by the Council, and in case a vacancy shall happen by death, resignation, removal, or otherwise the Governor may appoint to fill such vacancy until the close of the next succeeding session of the Legislative Assembly.

SEC. 6. The person appointed warden shall, before he enters upon the duties of the office, give bond in a sum to be fixed by the board of managers, with two or more sureties to be approved by the Governor, conditioned that he will faithfully account for all money and other property that shall come into his hands by virtue of his office, and shall also take and subscribe an oath before some justice of the peace, probate or district judge of the Territory, that he will faithfully discharge

the duties of warden of the penitentiary, which bond and oath shall be filed with and safely kept by the Territorial Auditor.

SEC. 7. The board of managers shall have power to remove the warden for cause. All charges against him shall be made in writing, of which he shall have due notice and opportunity to make his defense, but any removal made by the board shall not be reviewed or interfered with by any court of the Territory.

SEC. 8. The board of managers shall make rules and regulations for the government and management of the penitentiary, and shall determine the number of subordinate officers and employés, beyond those specified in this act, and to fix the compensation to be paid them. All appointments of such officers and employés shall be made by the warden, with the approval of the board of managers, but laborers may be employed temporarily without such approval.

SEC. 9. The warden shall be provided with proper rooms for an office in the penitentiary, and with a contingent fund annually of not more than five hundred dollars for fuel, lights, stationery, and furniture, which shall be accounted for quarterly and upon satisfactory vouchers, and he shall be paid a salary of three thousand dollars per annum, payable quarterly on his own warrant.

SEC. 10. There shall be one deputy warden and one chief clerk, who shall be appointed by the warden, with the consent and approval of the board of managers, who shall receive a salary of fifteen hundred dollars each, payable monthly on an account approved and certified to by the warden. All other officers and employés shall be paid monthly on a pay-roll certified to by the warden.

SEC. 11. The warden, with approval of the board of managers, shall have power to enter into contracts in the name and for and on behalf of the Territory, with a private party or parties, for the labor of the convicts to be performed for such private party or parties within or outside of the penitentiary under such restrictions and regulations as are specified in this act, and as may be prescribed by the board of managers. Suits against a private party, or parties, arising under such contracts, shall be in the name of the Territory of New Mexico and prosecuted by the Attorney General of the Territory. The earnings of the convicts under contracts or otherwise shall belong to the

Territory, and be received and accounted for by the warden at such times and in manner and form as shall be prescribed by the board of managers.

SEC. 12. The warden may purchase the customary supplies of food, clothing, bedding, and furniture for the convicts, and tools, implements, machinery, and materials necessary to carry on manufacturing within the penitentiary for and on account of the territorial government, and to sell the products of manufacturing and account for the receipts therefor under such rules as shall be adopted by the board of managers.

SEC. 13. The board of managers shall hold a meeting on the first Monday of April, July, October and January of each year, and at such other times as the Governor shall designate. At such meetings the Governor shall preside, or in his absence the Attorney General, and the Treasurer shall act as secretary, and in his absence the Attorney General shall be secretary. A record or memorandum of their proceedings shall be kept and entered in a book to be provided for that purpose, and such record shall be read over and signed by all the members present at the close of each meeting. As soon as practicable the board shall adopt rules covering the several subjects embraced in this act where they are authorized to do so, which rules shall be printed in English and Spanish and conspicuously posted in the office of the warden.

SEC. 14. On the first Monday of January of each year the warden shall make a report to the board of managers showing the whole number of prisoners in the penitentiary on the 31st day of the preceding December, the number received and discharged during the previous year, the county in, and crime of which convicted, the term of sentence, the cause of discharge in each case, the ages and sex of the prisoners. He shall also report all sums of money received by him during the previous year from all sources, stating each amount separately, and the names of the persons from whom received, the expenditures in detail for operating the penitentiary, the number of officers and others employed, giving names and terms of service and the compensation of each, and the employment to which each has been assigned during the preceding calendar year. He shall state the number and cause of removals of officers and employes, the condition and discipline of the prison, and such other facts and suggestions as he may deem conducive to improvement and economy in the management of the institution.

The year in which the Legislature shall hold a session the board of managers shall report to the two houses all rules in force which have been adopted by it, the receipts in detail from, and the expenditures on account of the penitentiary, and transmit therewith the reports made by the warden since the last preceding session.

SEC. 15. In order to facilitate and hasten the construction of the penitentiary, an issue of the bonds of the Territory is hereby authorized to an amount not exceeding one hundred and fifty thousand dollars, payable ten years after date, and bearing interest at the rate of seven per cent per annum, payable semi-annually at a fiscal agency to be specified in the bonds and coupons. The said bonds shall be of the denomination of one thousand dollars, or a multiple thereof, with interest coupons attached, and shall be signed by the Governor, countersigned by the Auditor, and to which shall be affixed the official seal of the Territory. The coupons shall be signed by the Territorial Treasurer, and the said bonds and coupons shall be in such form as shall be designated by the Governor and Attorney General of the Territory, and the expense of preparing and printing said bonds, shall be paid out of the proceeds of the sale thereof.

SEC. 16. The Governor, Attorney General, and Auditor, shall have power to negotiate and sell the bonds authorized by the foregoing section to the best advantage, but in no case for less than ninety-five cents on the dollar. The said bonds shall bear date at the beginning of some fiscal quarter as prescribed by the laws and customs of the United States.

SEC. 17. The proceeds of the sale of said bonds shall be placed in the territorial treasury, and shall not be used for any purpose whatever, except in paying the expense of preparing and printing mentioned in the fifteenth section of this act, and for any proper expense attending the negotiation and sale, in procuring a site, and in constructing and furnishing the penitentiary.

SEC. 18. There shall be added annually to the general levy of taxes for territorial purposes upon the taxable property of the Territory one-half of one mill on the dollar for the purpose of paying the interest and principal of the bonds authorized by this act. The said tax shall be collected and paid into the territorial treasury according to the law relating to the collection and paying over of other territorial taxes. Any

surplus, after paying the interest on said bonds, shall be held in the treasury as a sinking fund and applied to the payment of the principal of said bonds. Whenever a sum not less than five thousand dollars has accumulated in the treasury, the Governor shall advertise for a period of thirty days in such newspapers as he may select for bids for the sale of said bonds and at the expiration thereof he shall purchase from the lowest bidders bonds to the amount of money that may be in the treasury for that purpose. Immediately on receiving the bonds so purchased, he shall cause to be plainly written or printed across the face thereof the words, "paid and cancelled," with the date of purchase. Whenever the Treasurer shall receive any of the interest coupons that have been paid, he shall write across the face the word "paid," and sign his name thereunder. On the first Monday of February of each year the bonds purchased and the coupons paid shall be destroyed by burning by the Treasurer, in the presence of the Attorney General and Auditor, and the three shall make and sign a memorandum particularly describing the bonds and coupons so destroyed, which memorandum shall be filed with the Auditor. The Treasurer in his report to the Governor at the beginning of each Legislative session shall state specifically the bonds and coupons that have been paid and destroyed.

SEC. 19. This act shall take effect and be in force from and after its passage.

CHAPTER LX.

AN ACT TO AMEND AN ACT ENTITLED, "AN ACT AUTHORIZING THE BUILDING OF A PENITENTIARY IN THE TERRITORY OF NEW MEXICO AND REGULATING ITS MANAGEMENT," APPROVED MARCH 14, 1884. *Approved March 26, 1884.*

CONTENTS.

SECTION 1. Amends enacting clause.

SEC. 2. Ratifies, reenacts and approves said act.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. The enacting clause of an act entitled an act authorizing the building of a penitentiary in the Territory of New Mexico and regulating its management, approved March 14, 1884, be and the same is hereby amended so as to read as follows, to-wit: "Be it enacted by the Legislative Assembly of the Territory of New Mexico."

SEC. 2. That the said act be and the same in all its parts, as amended, is hereby re-enacted, ratified and approved; and this act shall be in force and effect from and after its passage.

CHAPTER LXI.

AN ACT TO PROVIDE FOR THE FUNDING THE INDEBTEDNESS OF COUNTIES. *Approved March 29, 1884.*

CONTENTS.

SECTION 1. Bonds exchanged for warrants outstanding Dec. 31, 1884.

SEC. 2. Denomination, interest and terms of payment; exception in favor of Taos county.

SEC. 3. Bonds and coupons shall show the same number and date of maturity.

SEC. 4. Registration.

SEC. 5. Tax levy to meet principal and interest.

SEC. 6. Signing and attesting.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. That the county commissioners of the respective counties of this Territory shall issue bonds of said counties in exchange for all warrants now outstanding and that may be issued on or before the 31st day of December, A. D. 1884, with interest accrued and unpaid thereon.

SEC. 2. Said bonds shall be of the denomination of one hundred dollars each and multiples thereof, and shall bear interest at the rate of six per cent. per annum, and be payable in not less than ten and not more than thirty years from their date, at the option of the county commissioners. The interest on said bonds shall be payable annually, on the first day of January of each year. Said bonds shall be issued with inter-

est bearing coupons, and dated January 1st, 1885; *Provided*, that in the county of Taos, the interest to be paid in this section shall be only four per cent. per annum.

SEC. 3. It shall be the duty of the county commissioners to number all the bonds issued by said county, and the coupons shall bear the same number as the bond, and shall show the date of their maturity.

SEC. 4. The county commissioners of each county issuing bonds shall provide a book, and shall register therein the numbers of all bonds issued, and the name of the person to whom issued, and a description of the warrants taken up and cancelled by the issuing of said bond.

SEC. 5. It shall be the duty of the county commissioners of any county in which said bonds shall be issued to levy a tax each year sufficient to meet the amount of interest and principal thereof, payable within the year next succeeding the time of such levy, and of all overdue and unpaid interest and principal, which said levy shall be made at the time and in the manner now provided by law for levying other taxes. It shall be kept separate from the levies made for other county purposes, and shall be payable in money or overdue coupons, and shall be devoted exclusively to the payment of such interest and principal.

SEC. 6. Said bonds shall be signed by the chairman of the board of county commissioners, and attested by the clerk and the seal of the board; *Provided*, that no warrants shall be funded under the provisions of this act after the 31st day of December, 1884; *and provided further*, that this act shall not apply to any warrants issued subsequent to the 31st day of December, 1884.

SEC. 7. This act shall take effect from and after its passage.

CHAPTER LXII.

AN ACT TO DEFINE THE MANNER OF PAYMENT OF TERRITORIAL, COUNTY, AND MUNICIPAL WARRANTS. *Approved April 3, 1884.*

CONTENTS.

SECTION 1. Treasurers to register warrants not paid.

SEC. 2. To be registered in order of presentation.

SEC. 3. Shall be numbered, how; endorsement.

SEC. 4. Register shall show, what; shall be open to inspection.

SEC. 5. Funds to be set apart; payment in order of registration.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. That when any warrant or order, regularly and lawfully drawn upon the treasurer of this Territory, or the treasurer of any county in this Territory, or the treasurer of any municipal government in this Territory, is presented for payment and such treasurer has not the funds with which to meet such demand, such treasurer shall register such warrant or order in the manner hereinafter provided.

SEC. 2. Any warrant or order drawn upon any treasurer contemplated by the foregoing section of this act, if not paid when presented for the want of funds, shall be registered in the order of its presentation in a book to be kept for that purpose.

SEC. 3. The warrants or orders shall be numbered as follows, to-wit: Commencing on the first day of each month with number one and running up successively as presented to the close of the month. The treasurer shall stamp or write on such warrant or order the number, day of the month, and month of the year, which number and date shall correspond with the number and date recorded in such register.

SEC. 4. The register contemplated by this act shall contain the number of the warrant or order, date of presentation, the amount for which and in whose favor drawn. Such register shall be open to the inspection of the public at all reasonable times during the business hours of the day.

SEC. 5. The treasurer shall set apart from the public funds, as fast as they accrue, the full amount of each warrant or order in the order in which they appear on such register, and payments shall be made in the order in which such warrants or orders are registered.

SEC. 6. This act shall take effect and be in force from and after its passage and approval.

CHAPTER LXIII.

AN ACT TO CREATE THE OFFICE OF COUNTY ASSESSOR AND TO PROVIDE FOR THE ELECTION AND QUALIFICATIONS OF SUCH OFFICER. *Approved April 3, 1884.*

CONTENTS.

SECTION 1. Election.

SEC. 2. Term of office; bond required; oath of office.

SEC. 3. Appointment of deputies, how made; liabilities.

SEC. 4. Vacancies, how filled.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. At the next general election, and every two years thereafter, there shall be elected in the same manner as now provided by law for the election of other county officers, a county assessor for each county in this Territory, whose duties, powers, and compensation shall be such as are now or may hereafter be prescribed by law.

SEC. 2. The county assessor shall enter upon the duties of his office on the first day of January following the date [of] his election, and shall continue in office for the term of two years, and until his successor shall have been duly elected and qualified. Before assuming the duties of office he shall execute a bond to the Territory in the sum of two thousand dollars, with two or more sureties, to be approved by the board of county commissioners, conditioned that he shall promptly, faithfully, and impartially discharge the duties of his office, and shall also take and subscribe an oath, in writing, that he will support the constitution of the United States, and faithfully discharge the duties required of him by law as such officer. Such official bond and oath shall be filed in the office of the probate clerk.

SEC. 3. The county assessor may, with the consent and approval of the chairman of the board of county commissioners, appoint one or more deputies to assist him in the discharge of his official duties, who shall take and subscribe an official oath similar to the oath required of the county assessor by the preceding section. The appointment of such deputy shall be in writing, and together with his official oath, shall be filed

in the office of the probate clerk. The county assessor shall be liable upon his official bond for any official misconduct on the part of his deputy.

SEC. 4. Should a vacancy occur in the office of county assessor by reason of death, resignation, removal, or otherwise, the same shall be filled by the board of county commissioners in the manner prescribed by section forty of an act entitled "An act to provide for the establishment and election of county commissioners" approved January 13, 1876.

SEC. 5. All acts and parts of acts now in force and in conflict with the provisions of this act are hereby repealed.

SEC. 6. This act shall take effect and be in force from and after its passage.

CHAPTER LXIV.

AN ACT WITH REFERENCE TO REVENUE. *Approved April 3, 1884.*

CONTENTS.

SECTION 1. Personal property of non-residents, taxable.

SEC. 2. Poll tax shall be for use of school fund.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. An act entitled "An act providing for taxing personal property in the Territory belonging to non-residents," approved January 14, 1876, be and the same is hereby declared to be in force and effect.

SEC. 2. The poll tax imposed by the general laws for the purpose of providing revenue shall be paid into the moneys of the respective counties for the use of the school fund.

This act shall be in full force and effect from and after its passage.

CHAPTER LXV.

AN ACT AMENDING AN ACT ENTITLED "AN ACT DEFINING A SYSTEM OF REVENUE" APPROVED MARCH 1, 1882. *Approved April 3, 1884.*

CONTENTS.

SECTION 1. Taxes "net" instead of "gross" products of mines.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. Section 3 shall be amended to read as follows: That where the words (gross products) occur within brackets, shall read (net products.)

This act shall take effect from and after its passage and approval.

CHAPTER LXVI.

AN ACT TO PROVIDE FOR THE COMPILATION, PUBLICATION AND DISTRIBUTION OF THE LAWS OF THE TERRITORY OF NEW MEXICO. *Approved April 3, 1884.*

CONTENTS.

SECTION 1. Appointment of Commissioners and Secretary; per diem and expenses; vacancies, how filled.

SEC. 2. Duties defined; requirements of compilation; contents; expenses how paid.

SEC. 3. Attorney General to approve publication and distribution; volumes public property.

SEC. 4. Governor to proclaim laws in force.

SEC. 5. Contracts for publication, how made.

WHEREAS, There has been no legalized compilation of the laws of this Territory since the year 1865, and the compilation of that year was of the general laws only; and,

WHEREAS, The session laws of many of the sessions of the

Legislature are out of print, so that to ascertain the law on many subjects is attended with great labor and difficulty; therefore,

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. That the Governor shall appoint three commissioners, and one secretary, who shall be a competent Spanish and English scholar, and that each commissioner and the secretary will receive six dollars each per day when necessarily employed in their duties, and the necessary expenses of traveling in going and coming to attend to such compilation, to perform the duties hereinafter imposed. In case of any vacancy in said commission from death, resignation, or inability or failure to serve, such vacancy shall be filled by appointment by the Governor.

SEC. 2. The said commissioners shall proceed at once to make a careful and accurate compilation of all the laws, general, local, and private, which shall be in force on the fifth day of May, 1884. In such compilation there shall be, so far as practicable, a classification by titles, to be subdivided into chapter subjects; each chapter, or subdivision of a chapter, shall be headed by a syllabus of its contents, and shall have brief and comprehensive marginal notes, which shall state the dates of the original enactments. The laws so compiled shall be comprehensively and accurately indexed, and prefaced with a general table of contents. The said commissioners shall report to the next session of the Legislature any contradictions, inconsistencies, and omissions found in the existing laws for the information and action of that body. The expenses of said commission for copying, translating, stationery, and other incidental matters, shall be paid on verified accounts, approved by the Governor, and the Auditor is hereby directed to draw warrants on the Treasurer for the amounts of such verified accounts approved as aforesaid.

SEC. 3. When such commissioners shall have completed the said compilation as above required, the same shall be submitted to the Attorney General, and on his certifying that the same is correct and has been done in conformity with the requirements of this act, the said commissioners shall immediately cause the same to be published in octavo volumes,

bound in law sheep, in both the English and Spanish languages on alternate pages in the same volume. The general laws shall be in one volume, and the local and private laws in another. In an appendix to the volume of general laws shall be printed the congressional act of 1850 organizing the Territory, and any subsequent acts of Congress amendatory thereto; the treaty of Guadalupe Hidalgo, or such parts thereof as affect interests in this Territory, and the Kearney Code. Such appendix shall also contain a list of all laws passed since 1865, arranged by years, with notes showing which have been repealed, and when. One thousand volumes of the general laws shall be printed and delivered to the Territorial Librarian. One hundred copies thereof shall be placed at the disposal of the Secretary of the Territory to be distributed by him to the Library of Congress at Washington, to the President of the United States, to the heads of departments at Washington, to the President of the Senate and the Speaker of the House of Representatives of the United States, and to State, Territorial, and public libraries. The Librarian shall take receipts for all copies distributed, and shall report annually on the first day of December to the Governor and Legislative Assembly the distributions, to whom and when made. One copy shall be given to each of the territorial officers, to each district judge, each district attorney, and to each clerk of the district courts. There shall be forwarded to the clerk of the board of county commissioners of each county, the Librarian also taking his receipt therefore, a sufficient number for distribution as follows: one to said clerk, one to the probate judge, one to the probate clerk, one to the sheriff, and one to each justice of the peace. And the said clerk shall take and file a receipt for each volume so delivered, and report the same to the Librarian of the Territory. The volumes so distributed to the several territorial, county and precinct officers in this Territory shall be the property of the offices respectively, and shall be safely kept and turned over to the successors in office taking their receipts therefore. There shall also be one copy furnished to each member of the present assembly. There shall be six hundred copies of the local and private laws printed, to be distributed in the same manner as above designated for the distribution of the general laws, except that sixty instead of one hundred copies shall be sent through the office of the Secretary of the Territory to National, State, Territorial, and Public Libraries. The remaining volumes

shall be placed in the public library at the capitol to be distributed as new precincts are formed and new offices created in manner and form the same as herein provided for the general laws, and to be sold by the Librarian at a price to be fixed by the Governor, Attorney General and Auditor, or a majority of them, and the proceeds of such sale used for the benefit of the library.

SEC. 4. When said laws shall have been printed, and are ready for distribution, the Governor shall issue his proclamation announcing such fact, and thirty days after the date of such proclamation said compilation shall go into effect, and thereafter the laws so compiled shall be received by all the courts and officers of this Territory, and shall in all respects be as valid and binding as original enrolled acts approved and filed in the office of the Secretary of the Territory as now provided by law.

SEC. 5. The Governor, Attorney General and Auditor, or a majority thereof, of the Territory, are authorized to make a contract for the publication of the laws as hereinbefore provided. Such contract shall be made with the lowest and best bidder for such publication, after advertisement for proposals in at least three newspapers printed in this Territory, and one each in Chicago, St. Louis, Kansas City, and San Francisco, which shall designate the quality of paper and binding, and style of type to be used in the work. The Governor shall certify the accounts for the said volumes as they are delivered, and the Auditor shall issue his warrants for the sums so certified. The same officers shall determine a reasonable compensation to the commissioners, provided for in this act, and shall provide for the incidental expenses of said compilation and distribution, the same to be paid on certificate of the Governor, and the Auditor shall issue his warrants upon the Treasury therefor.

SEC. 6. That this act shall be in force and effect from and after its passage and approval.

CHAPTER LXVII.

AN ACT CONCERNING SALARIES AND EXPENSES OF TERRITORIAL OFFICERS. *Approved April 3, 1884.*

CONTENTS.

SECTION 1. Increases Auditor's salary.

SEC. 2. Appropriates for Treasurer's expenses.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. The Auditor of the Territory shall hereafter receive as salary the sum of two thousand dollars per annum.

SEC. 2. An appropriation is hereby made of the sum of five hundred dollars per annum, payable upon the warrant of the Auditor of the Territory, to the Treasurer of the Territory for office rent and incidental expenses, out of any moneys in the territorial treasury not otherwise appropriated.

SEC. 3. This act shall take effect and be in force from and after its passage, and all acts and parts of acts inconsistent herewith are hereby repealed.

CHAPTER LXVIII.

AN ACT PROVIDING FOR CONTINGENT EXPENSES OF THE LEGISLATIVE COUNCIL. *Approved February 26, 1884.*

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. That the sum of one hundred and seventy-five and 85-100 dollars (\$175.85) are by this act appropriated out of the funds of the Territory, not otherwise appropriated, for the payment of a bill of Mr. H. Crampton, for furniture purchased by order of the Council.

SEC. 2. This act shall be in force from and after its passage and approval.

CHAPTER LXIX.

AN ACT TO PROVIDE FOR CERTAIN CONTINGENT EXPENSES OF THE TWENTY-SIXTH SESSION OF THE LEGISLATIVE ASSEMBLY OF THE TERRITORY OF NEW MEXICO. *Approved March 12, 1884.*

CONTENTS.

SECTION 1. Rate of pay for extra officers of Assembly.

SEC. 2. To be certified by chief officers; Auditor to draw warrants.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. The employés in the respective houses of the present (twenty-sixth) Legislative Assembly of this Territory, shall receive pay, to be paid by the Territory, as follows:

First—Each person employed as interpreter, not exceeding one in each house, at the rate of eight dollars per day for each legislative day, including the day of their appointment and during their employment as such.

Second—Each person employed as translator or clerk, at the rate of five dollars per day for each legislative day, including the day of their appointment and during their employment as such.

Third—Each person employed as sergeant-at-arms, or assistant sergeant-at-arms, at the rate of five dollars per day for each legislative day, including the day of their appointment and during their employment as such.

Fourth—Each person employed as page, in either house, at the rate of three dollars per day for each legislative day, including the day of their appointment and during their employment as such.

Fifth—All other persons employed in either house at the

rate of four dollar per day for each legislative day, including the day of their appointment and during their employment as such; *Provided*, that no person employed in either house who receives pay from the appropriation made by the government of the United States, to defray the expenses of the present session of the Legislative Assembly, shall be construed to come within the provisions of this act or to be entitled to pay thereunder.

SEC. 2. That a certificate of services shall be given in favor of each person employed as above mentioned, as often as once in ten days, signed by the President and Secretary of the Council, and Speaker and Chief Clerk of the House of Representatives, as the case may be, in the house where such services are rendered; and upon the presentation of said certificate to the Auditor of public accounts he shall issue his warrant in favor of the person receiving such certificate for the sum specified therein on the Territorial Treasurer, who shall pay the same out of any money in the treasury not otherwise appropriated.

CHAPTER LXX.

AN ACT TO PROVIDE FOR THE PAYMENT OF PRINTING EXPENSES IN SPANISH. *Approved March 12, 1884.*

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. That the sum of two thousand (2,000) dollars, or as much thereof as may be necessary, is hereby appropriated out of any money in the territorial treasury for the payment of the printing of bills, resolutions, and papers ordered by the Legislative Assembly to be printed in Spanish language. The bills for such printing shall be approved by the Secretary of the Territory, and upon his certificate the Territorial Auditor shall issue his warrant for the amount stated upon the Territorial Treasurer; *Provided*, that the price to be paid for printing under this act shall not exceed the maximum prices allowed

by the United States for work of the same character, and that the method of measurement shall be the same as that established by the measuring department of the United States.

SEC. 2. This act shall take effect and be in force from and after its passage.

CHAPTER LXXI.

AN ACT TO PROVIDE FOR THE PRINTING OF THE JOURNALS AND LAWS IN SPANISH AND PRINTING THE OFFICIAL REPORTS FOR THE YEAR 1884. *Approved April 3, 1884.*

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. To provide for printing the journals and laws of the present session in Spanish, and for the printing of the official reports, as ordered by joint resolution of the Council and House of Representatives; to print the reports of the Adjutant General, Auditor, Treasurer, Librarian and Bureau of Immigration, there shall be appropriated (out of any moneys not otherwise appropriated) a sufficient amount to pay for same at rates not exceeding those established by the treasury department at Washington in accordance with the same rules of measurement. The work shall be executed under the direction of the Secretary of the Territory, who shall certify the same to the Auditor, who shall audit the accounts upon the basis as stated above, and is hereby directed to issue his warrant upon the Territorial Treasurer for such amounts as above authorized.

SEC. 2. This act shall take effect and be in force from and after its passage.

CHAPTER LXXII.

AN ACT FOR THE RELIEF OF ROMULO MARTINEZ, SHERIFF OF SANTA FE COUNTY, N. M. *Approved April 1, 1884.*

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. That the Auditor of public accounts be and he is hereby directed to draw a draft on the Territorial Treasurer in favor of Romulo Martinez for the sum of seven hundred dollars in payment in full for his and his deputies and employes services, outlay, and expenses in recapturing Milton J. Yarberry, convicted of murder, and for extra expenses incurred in keeping and caring for said Yarberry while in his custody, and the Territorial Treasurer is hereby authorized and directed to pay said draft when drawn from any money in the territorial treasury not otherwise appropriated.

SEC. 2. That this act shall be in full force and effect from and after its passage.

CHAPTER LXXIII.

AN ACT FOR THE RELIEF OF JOSE S. ESQUIBEL, SHERIFF OF SAN MIGUEL COUNTY [ARREST OF J. G. WHITNEY.] *Approved April 3, 1884.*

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. That the sum of five hundred dollars of any funds in the territorial treasury, not otherwise appropriated, is by this act appropriated to be paid to Jose S. Esquibel, sheriff of San Miguel county, as compensation for his services and reimbursement of expenses incurred by the said Jose S. Esquibel, sheriff as aforesaid, for making the arrest, and custody

of James G. Whitney, accused of the assassination of Manuel B. Otero, deceased, which arrest was made by the said Jose S. Esquibel by the order of His Excellency, the Governor of the Territory, at Las Vegas, county of San Miguel, N. M., on the 21st day of September, A. D. 1883, and thence taken to Albuquerque, county of Bernalillo, where said prisoner was released from arrest under an act of habeas corpus issued by order of the court of the Second Judicial District of the Territory.

SEC. 2. That immediately after the passage of this act the Auditor of the Territory shall draw against the Treasurer thereof, for the sum herein appropriated, in favor of said Jose S. Esquibel, sheriff as aforesaid, and that the Territorial Treasurer shall pay the amount of said warrant, on its being presented to him, out of any money in the Treasury, not otherwise appropriated.

SEC. 3. That this act shall have full force and effect from and after its passage.

[Translation.]

Paper attached to original act, to-wit:—Amendment to H. B. 145.

Amend the act in first line, first section, by striking out the words "five hundred," and inserting the words "two hundred and fifty" in lieu thereof.

CHAPTER LXXIV.

AN ACT FOR THE RELIEF OF MARIA DE JESUS TRUJILLO DE ARCHULETA [WIDOW OF DIEGO ARCHULETA.] *Approved April 1, 1884.*

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. That the sum of one thousand five hundred dollars [be appropriated] out of the territorial funds, not otherwise appropriated, for the benefit and use of Maria de Jesus Trujillo de Archuleta, late wife of the Hon. Diego Archuleta, lately deceased.

SEC. 2. That the Auditor shall approve and issue a warrant for the payment of said sum, and the Treasurer shall pay such sum to the said Maria de Jesus Trujillo de Archuleta, who shall receive such present for her own use as a token of respect for the services rendered to this Territory by said deceased.

SEC. 3. This act shall be in force immediately after its passage and approval.

[Translation.]

CHAPTER LXXV.

AN ACT FOR THE RELIEF OF MRS. W. F. M. ARNY, WIDOW OF THE LATE HON. ARNY. *Approved April 3, 1884.*

WHEREAS, it has come to the knowledge of certain members of the Legislative Assembly, that there is now residing in Santa Fe, New Mexico, Mrs. W. F. M. Arny, the widow of the late Hon. Arny, who was for many years Secretary of this Territory, and that the said Mrs. W. F. M. Arny is over eighty years old and is in very destitute circumstances; therefore,

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. That the sum of three hundred dollars be appropriated for the relief of Mrs. W. F. M. Arny.

SEC. 2. That the said sum shall be paid to the said Mrs. W. F. M. Arny out of any money in the territorial treasury not otherwise appropriated.

SEC. 3. That this act take effect and be in force on and after its passage.

CHAPTER LXXVI.

AN ACT ENTITLED AN ACT PROVIDING FOR THE PAYMENT OF DEBTS INCURRED BY THE SISTERS OF CHARITY OF SANTA FE, IN CARING FOR THE INDIGENT SICK OF THE TERRITORY DURING THE YEARS 1882 and 1883. *Approved March 31, 1884.*

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION. 1. That the sum of two thousand two hundred and thirty dollars (2230 00) be and same is hereby appropriated out of any money in the territorial treasury not otherwise appropriated, to be applied in paying debts incurred by the Sisters of Charity of Santa Fe in caring for the indigent sick of the Territory during the years 1882 and 1883.

SEC. 2. Said sum shall be paid in the manner provided by an act entitled "An act concerning the Hospital of the Sisters of Charity of Santa Fe, and the indigent sick of the Territory," approved February 2d, 1880.

SEC. 3. This act shall take effect and be in force from and after its passage.

CHAPTER LXXVII.

AN ACT AMENDING AN ACT ENTITLED "AN ACT CONCERNING THE HOSPITAL OF THE SISTERS OF CHARITY OF SANTA FE AND THE INDIGENT SICK OF THE TERRITORY" APPROVED FEBRUARY 2, 1880. *Approved March 29, 1884.*

CONTENTS.

SECTION 1. Increases limit of appropriation.

SEC. 2. Increases weekly rate.

SEC. 3. Changes limit of appropriation.

SEC. 4. Amends title of act.

SEC. 5. Adds new section, appropriating to Grant county hospital.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. That section one of an act entitled "An act concerning the Hospital of the Sisters of Charity of Santa Fe and the indigent sick of the Territory," passed February 2nd, 1880, be amended so as to read after the word *exceeding* "five hundred and sixty dollars (560.00.)"

SEC. 2. That section two of said act shall be amended so as to read after the words "sum of," "five dollars and twenty-five cents."

SEC. 3. That section three of said act be amended so as to read after the words no more than "five hundred and sixty dollars."

SEC. 4. That the title of said act to read as follows: "An act concerning certain hospitals and the indigent sick of the Territory."

SEC. 5. That an additional section be added to said act to be numbered section five and to read as follows: Section 5. The sum of two hundred and fifty dollars per month is hereby appropriated to the Grant County Charity Hospital Society, to be audited monthly by the Territorial Auditor, on a requisition signed by the president of said society, attested by the secretary of said society, and countersigned by the chairman of the board of county commissioners.

SEC. 6. This act shall take effect from and after its passage.

CHAPTER LXXVIII.

AN ACT TO PROVIDE FOR THE PRESERVATION AND EXHIBITION OF HISTORICAL ANTIQUITIES WITHIN THE TERRITORY OF NEW MEXICO. *Approved March 6, 1884.*

CONTENTS.

SECTION 1. Appropriates \$400 per annum to Historical Society of New Mexico; articles to be registered, how held.

SEC. 2. To be paid quarterly.

WHEREAS, No part of the United States is so rich in historical, antiquarian, and archeological treasures as New Mexico, and it is of great importance that these should not be taken from the Territory, but should be carefully preserved and publicly exhibited for the instruction of succeeding generations; and,

WHEREAS, If means be not adopted here for their retention, they will soon be found only in collections in remote parts of the United States and in Europe; therefore.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. The sum of \$400 per annum is hereby appropriated to the Historical Society of New Mexico, a corporation duly organized under the laws of this Territory, to be expended exclusively in the purchase of rare and curious objects of historical, antiquarian, and archeological value, which articles shall be kept a perpetual free and public exhibition by said society. All articles so purchased shall be registered as being purchased with the money of the Territory, and shall never be disposed of by said society in any way, and in case said society shall at any time be dissolved or become extinct such articles shall become the property of the Territory or State of New Mexico.

SEC. 2. The Territorial Auditor shall draw his warrant on the Treasurer of the Territory in favor of the treasurer of the said society for the sum of \$100 on the first days of April, July, October, and January, of each year, in payment of the above appropriation.

SEC. 3. This act shall take effect immediately.

CHAPTER LXXIX.

AN ACT PROVIDING PURCHASE OF ONE HUNDRED AND FIFTY COPIES OF MURILLO VELARDE ON WILLS AND TESTAMENTS.
Approved March 29, 1884.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. That the sum of two hundred and fifty dollars

(\$250) is hereby appropriated for the purchase from Thomas S. Tucker, one hundred and fifty (150) copies of *Practica de Testamento's* written by P. Pedro Murillo Velarde, for distribution among county and territorial officers.

SEC. 2. The Territorial Auditor is hereby authorized to draw a warrant for the above sum on the Territorial Treasurer, on the above number of copies (150) being delivered to him.

SEC. 3. This act to be in force and effect from and after its passage and approval, and all laws and parts of laws in conflict are hereby repealed.

CHAPTER LXXX.

AN ACT REGARDING THE RATES OF INTEREST. *Approved April 3, 1884.*

CONTENTS.

SECTION 1-2. Limitation of interest; penalty for usury.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. That any person, persons, or corporation, who shall hereafter charge, collect, or receive from any person a higher rate of interest than twelve per cent. per annum, shall be guilty of a misdemeanor, and upon conviction thereof before the district court or a justice of the peace, shall be fined in a sum of not less than twenty-five dollars nor more than one hundred dollars; and such person, persons, or corporation, shall forfeit to the person of whom such interest was collected or received, or to his executors, administrators, or assigns, double the amount so collected or received upon any action brought for the recovery of the same within three years after such cause of action accrued.

SEC. 2. That the provisions of this act shall also apply to any person, persons, corporation, or officer of the same, who may charge, receive, or collect a higher rate of interest than

twelve per cent. per annum by means of discount, commission, agency, or any other subterfuge.

SEC. 3. This shall be in force and effect from and after its passage.

CHAPTER LXXXI.

AN ACT TO REPEAL AN ACT APPROVED MARCH 2, 1882, CHAPTER XLI. *Approved April 1, 1884.*

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. That an act establishing the New Mexico Board of Charities and of Industrial Schools and defining the powers and duties thereof, approved March 2, 1882, is hereby repealed in all its parts and provisions.

SEC. 2. This act shall be in full force from and after its passage.

CHAPTER LXXXII.

AN ACT FIXING THE TIME FOR THE CONVENING OF THE LEGISLATIVE ASSEMBLY OF THE TERRITORY OF NEW MEXICO. *Approved April 3, 1884.*

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. The next Territorial Legislature of this Territory shall convene on the last Monday in December in the year eighteen hundred and eighty-six, and all subsequent Territorial Legislatures on the last Monday of December in every two

years thereafter; and the next Territorial Legislature of this Territory shall be elected at the general election to be held in November, eighteen hundred and eighty-six.

SEC. 2. This act shall take effect and be in full force and effect from after its passage.

CHAPTER LXXXIII.

AN ACT ENTITLED AN ACT TO PROVIDE FOR THE REPAIRS OF PUBLIC ROADS AND HIGHWAYS. *Approved March 29, 1884.*

CONTENTS.

- SECTION 1. County Commissioners have general supervision.
- SEC. 2. Who are liable to road work, or to pay equivalent.
- SEC. 3. Supervisor to be appointed for each precinct; duty.
- SEC. 4. Shall apply moneys, how.
- SEC. 5. Compensation; reports to be made.
- SEC. 6. Commissioners to fix time and place for working roads.
- SEC. 7. Penalty for refusal to work or pay.
- SEC. 8. Bond required.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. The board of county commissioners in the several counties of this Territory shall have the general supervision over the highways in their county, and have power to establish, change, or discontinue them.

SEC. 2. Every able-bodied male inhabitant of the Territory between the ages of twenty-one and fifty years, and of sound mind, shall be required to work on the public roads two days in every year, at such time as he may be called upon by the road supervisor of his precinct to do so. Every person owning a team of horses, mules, or oxen, and who travels over the roads with any kind of vehicle, shall be required to work one day with such team in such manner as directed by the supervisor. Any person may be excused from such work by paying to the road supervisor a road tax at the rate of one dollar and fifty cents for each team, and to every male, for each day so

excused, one dollar; [*Provided,*] that any male person liable to a road tax under this act may send any substitute to perform such labor in his stead.

SEC. 3. The board may appoint one road supervisor each year in each precinct, whose duty it shall be to call upon all persons liable to labor on the public roads and require them to perform such labor under their direction, or in lieu thereof, to collect from every such person the road tax provided in the last section.

SEC. 4. Such road supervisor shall have the supervision and control of the working of the roads, and shall apply all the money received by him as such to the purchase of necessary material, or the hiring of necessary labor for the working or repairs of the roads, and shall pay any surplus in his hands into the county treasury whenever required by the board to do so.

SEC. 5. Each road supervisor shall receive two dollars per day for his services for such time as the county commissioners shall allow, not exceeding ten days in any year. He shall render a full account to the commissioners when required, showing the names of those liable to road labor in his precinct, those who have performed the required work, and those who have paid money, and also showing in detail the expenditures made by him.

SEC. 6. The times of working the roads shall be fixed each year by the commissioners in their order appointing the road supervisors, and the board may also designate the character of the work and the localities where it shall be done in each precinct.

SEC. 7. If any person liable to work on the roads shall, upon being notified by the supervisor, refuse either to do the work required, or pay the road tax instead thereof, prescribed by law, he shall be liable to double the amount of such tax in a civil action by the county, and the commissioners may cause suit to be brought for the recovery of the same. Justices of the peace shall have jurisdiction of such suits, and the same shall be prosecuted to judgment and execution the same as in other civil actions. The action shall be in the name of the county, and a certified copy of the order of the county commissioners fixing the time for working the roads, together with proof of notice to the defendant by the road supervisor, and of his neglect or refusal to labor as required by the notice, shall

be sufficient evidence to warrant a judgment in favor of the county.

SEC. 8. Every supervisor of roads appointed under this act shall, before entering in the discharge of their duties, execute a bond to the Territory of New Mexico, in a sum to be fixed by the board of county commissioners, and with not less than two sufficient sureties to be approved by said board, conditioned for the faithful discharge of their duties and accounting for all moneys that may come into their hands under the provisions of this act.

This act shall be in full force and effect from and after its passage.

CHAPTER LXXXIV.

AN ACT RELATING TO FENCING CULTIVATED LAND. *Approved April 3, 1884.*

CONTENTS.

SECTION 1. Farmers to fence against stock.

SEC. 2. Limits within which law applies.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. All persons cultivating land within that portion of this Territory embraced within the boundaries hereinafter mentioned and described, shall be required to fence such cultivated land with a substantial fence of posts and boards, rails, poles, or wire, sufficient to turn horses, cattle, and sheep, and such fences shall be kept in good repair, and no claim for damage to crops by depredations of horses, cattle, or sheep shall be allowed to any person or persons by reason of his or their failure to comply with the provisions of this act.

SEC. 2. This act shall apply to all cultivated land embraced within the following boundaries, to-wit: all that portion of the

Territory of New Mexico lying west of the range line between ranges six and seven west to the west boundary of this Territory, and between the north line of township fourteen, south of the base line, to the second correction line north of said base line in this Territory, excepting from Logan's mill to the Box Cañon on the San Francisco river.

SEC. 3. This act shall be in force and take effect from and after its passage.

CHAPTER LXXXV.

AN ACT TO COMPEL PRISONERS IN COUNTY JAILS TO PERFORM USEFUL LABOR. *Approved April 3, 1884.*

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. All prisoners convicted of crime and sentenced to the county jail as a punishment, shall be compelled by the sheriff or jailer of each county in the Territory to labor during the term of his or her sentence at some useful employment during the term of such sentence; unless such prisoner is absolutely unfitted for labor by reason of age or sickness. And it shall be lawful to secure such prisoners by ball and chain or otherwise, or other proper and convenient means not amounting to cruel or inhuman treatment, so to prevent their escape.

SEC. 2. All acts and parts of acts in conflict herewith are hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

CHAPTER LXXXVI.

AN ACT TO DEFINE AND PREVENT NUISANCES IN TOWNS. *Approved April 2, 1884.*

CONTENTS.

SECTION 1. Location of slaughter houses.

SEC. 2. Hanging out dressed meats, unlawful.

SEC. 3. Penalty.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. It shall be unlawful for any person or corporation to erect, maintain, or operate any slaughter house, or to kill or prepare for sale any animal within three miles of the plaza of any town in the Territory which contains one thousand or more inhabitants.

SEC. 2. It shall be unlawful for any person to permit any dressed meat or carcass of any animal to be exposed for sale or as an advertisement, or for any other purpose, outside the walls of his or her place of business or residence in any town of the Territory which contains one thousand or more inhabitants.

SEC. 3. Any person who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and all justices of the peace shall have jurisdiction to try such offender within their respective counties, and upon conviction such person shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars, or by imprisonment not more than thirty days in the county jail, or by both such fine and imprisonment.

SEC. 4. All acts and parts of acts in conflict herewith are hereby repealed.

SEC. 5. This act shall take effect and be in force from and after the passage.

CHAPTER LXXXVII.

AN ACT DEFINING CERTAIN DUTIES OF COUNTY COMMISSIONERS.
Approved April 3, 1884.

CONTENTS.

SECTION 1. Accounts to be verified. Form of affidavit

SEC. 2. Proceedings and statements to be published.

SEC. 3. Penalty.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. All accounts, for whatever purpose, before being allowed and warrants drawn for same, shall be verified by affidavit, to be administered by the clerk of the board of county commissioners or by other officer authorized to administer such oaths, in the following words, to be indorsed upon the bill or attached thereto under seal: "I—do solemnly swear (or affirm) that the within and before-mentioned account is true and correct, and that the services have been rendered (or articles have been furnished) as stated, and that no part thereof has been paid."

SEC. 2. The board of county commissioners shall cause to be published once, within fifteen days after the close of every regular or special meeting, an abstract of the proceedings had, and an itemized statement of all sums of money allowed, and for what purpose and to whom allowed, in some paper of general circulation in their county.

SEC. 3. Any county commissioner or clerk of any board of county commissioners who shall wilfully fail or refuse to perform the duties prescribed in this act, or shall violate the provisions thereof, shall be deemed guilty of a misdemeanor, and upon conviction thereof before the district court of the proper county, shall be punished by a fine of not less than fifty nor more than five hundred dollars for each offense.

SEC. 4. All acts and parts of acts in conflict with this act are hereby repealed.

SEC. 5. This act shall take effect and be in force from and after its passage.

CHAPTER LXXXVIII.

AN ACT TO AUTHORIZE COUNTY COMMISSIONERS TO APPROPRIATE COUNTY FUNDS FOR THE NEW ORLEANS EXPOSITION. *Approved April 3, 1884.*

CONTENTS.

SECTION 1. Appropriation authorized; limit.

SEC. 2. Representative to be nominated; commission by Governor.

SEC. 3. Expenditures how made; limitation.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. That the county commissioners of each and every county of this Territory may and hereby are authorized, if they deem it proper, to appropriate from the funds of respective county a sum of money not exceeding three thousand dollars for the purpose of making an exhibit of the resources and products of their county at the World's Cotton Exposition, at New Orleans in December, 1884.

SEC. 2. The board of county commissioners of any county shall nominate a suitable person, to be commissioned by the Governor of the Territory, to represent such county at said World's Fair.

SEC. 3. The county commissioners shall prescribe the manner in which the expenditure shall be made, and the payments thereof; *Provided*, that no salary or compensation for services shall be allowed any commissioner or representatives of such county.

SEC. 4. This act shall take effect from and after its passage.

CHAPTER LXXXIX.

AN ACT FIXING THE COMPENSATION OF COUNTY COMMISSIONERS. *Approved March 27, 1884.*

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. That the commissioners of the several counties

in this Territory, where a specific annual salary has not been fixed by law, shall receive a per diem of five dollars each for every day's actual attendance at the county seat in the discharge of the duties pertaining to such office. Also ten cents per mile, the actual traveling expenses in traveling to and from their homes to such county seat.

SEC. 2. This act shall take effect and be in force from and after its passage and approval.

CHAPTER XC.

AN ACT IN RELATION TO COUNTY OFFICERS [GOVERNOR TO FILL VACANCIES.] *Approved April 3, 1884.*

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. That where any vacancy may exist in any county offices within this Territory, the Governor shall appoint and fill such vacancy until their successor or successors be elected and qualified.

SEC. 2. This act shall take effect and be in force from and after its passage and approval.

CHAPTER XCI.

AN ACT TO REPEAL AN ACT RELATIVE TO DITCHES, APPROVED JANUARY 31, 1880. [BERNALILLO COUNTY.] *Approved March 31, 1884.*

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. That an act entitled an act relative to ditches,

approved January 31st, 1880, be and is hereby repealed in all its sections. That this act shall apply only to the county of Bernalillo.

SEC. 2. That all laws and parts of laws in conflict with this, remain hereby repealed.

SEC. 3. That this act shall be in full force and effect from and after its passage and approval.

[Translation.]

CHAPTER XCII.

AN ACT TO INCORPORATE THE INCORPORATION OF THE COLONIAL GRANT KNOWN AS THE GRANT OF JOSE MANUEL SANCHEZ BACA, IN THE COUNTY OF DONA ANA. *Approved March 29, 1884.*

CONTENTS.

SECTION 1. Real estate owners created body politic.

SEC. 2. Officers of corporation; qualifications and powers.

SEC. 3. Election of commissioners; qualification of voters.

SEC. 4. Powers of officers; real estate how disposed of.

SEC. 5. Names temporary commissioners.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION. 1. All owners of real estate situate in the limits of the Colonial Grant, known by the name of the Jose Manuel Sanchez Baca Grant, in the county of Doña Ana, in this Territory, actual residents within the limits of said grant, be and they are hereby created a body politic, and public incorporate under the name and style of the corporation of the Grant of Jose Manuel Sanchez Baca, and by said name may sue and be sued, plead and be impleaded, may hold property, and have a common seal.

SEC. 2. That the officers of said incorporation shall consist of three commissioners, each one of whom shall be a qualified voter under this act. Said commissioners shall have authority to assume the management of all the real estate held in common for said incorporation, and shall make such rules for the government of the same as they may deem just and proper. They

shall have power to rent or give in rent, and with the consent of two-thirds of the votes under this act to convey or dispose of such real estate and execute deeds of conveyance for the same.

SEC. 3. Said commissioners shall be elected at an election to be held on the first Monday of January each year. Each owner or holder of real estate within the limits of said incorporation, who shall be resident thereof, shall be qualified to vote at said election, and shall be entitled to one vote for each piece of land that he may possess or hold within said limits, and one vote for each separate fraction of a piece of land. The three persons who shall receive the highest number of the votes cast shall be declared elected, and shall hold their offices respectively for one year, and until their successors be elected and qualified. The commissioners elected shall take the same oath as that required by justices of the peace.

SEC. 4. The commissioners shall elect one of their number as president, one as secretary, and one as treasurer. The president shall call meetings of the board whenever the business of the incorporation may require, or whenever they may be petitioned to do so by twenty qualified voters. Whenever the commissioners may deem it necessary or proper to sell or rent any real estate pertaining in common to said incorporation, they shall call a meeting of all the members of said incorporation by giving five days notice of the same, and shall state the object fully to the meeting, who shall take a vote thereon; and if two-thirds of the votes cast shall be in favor of the project then said commissioners shall have full power to sell or rent the lands on which they have voted; and in case of an absolute sale, the president of said commissioners shall sign the same, attested by the signature of the secretary and the seal of the incorporation, which shall be sufficient for the conveyance of all the title of said corporation to said land.

SEC. 5. That until the first election under this act Eugenio Moreno, José Rivera, Atanacio Gonzales, Santa Cruz Belarde, and Tranquilino Telles, shall possess all the powers that are granted by this act to commissioners elected under its provisions.

SEC. 6. This act shall be in force and effect from and after its passage and approval.

[Translation.]

CHAPTER XCIII.

AN ACT TO INCORPORATE THE COLONISTS OF THE GRANT OF THE COLONY OF REFUGIO IN THE COUNTY OF DONA ANA. *Approved March 7, 1884.*

CONTENTS.

SECTION 1. Owners of lands constituted body politic.

SEC. 2. Board of Commissioners, qualifications; powers; how elected; vacancies, how filled.

SEC. 3. Qualifications of voters.

SEC. 4. Limits of corporation.

SEC. 5. Suits at law, how conducted.

SEC. 6. Penalty for corrupt action.

SEC. 7. Temporary commissioners named.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. That the owners of lands within the limits of the Grant of the Colony of Refugio in the county of Doña Ana, be and they are hereby constituted a body corporate and politic, under the name and style of the Grant of the Colony of Refugio, and under this name may sue and be sued, and have perpetual succession, and may use a common seal.

SEC. 2. The business of said corporation shall be managed and conducted by a commission consisting of five commissioners, each one of whom shall be a qualified voter in the meaning of this act. Three of whom, when assembled, in any meeting of said commissioners shall constitute a quorum for the transaction of business, and all questions arising before said commission shall be determined by a majority of votes. The said commissioners shall be elected by the qualified voters of said corporation, which shall be held for this purpose on the first Monday of each year, and shall hold their office for one year and until their successors be elected and qualified. Vacancies caused by death, resignation, or removal from office, shall be filled for the unexpired time by qualified persons, and elected by the remaining members at a meeting of said commissioners. Each commissioner shall be qualified on taking the oath of office as required to be taken by a justice of the peace. Such commission, when qualified, shall elect from among its own

members a president, one secretary, and one treasurer and may by by-laws prescribe their different duties. They shall require its officers to enter into a good and sufficient bond to the corporation, conditioned for the faithful performance of their respective duties. The commission shall have power and authority to adopt from time to time all the rules and regulations necessary for the transaction of the business of the corporation, and to modify and annul the same; to grant, give, or otherwise dispose of vacant lands within the incorporated limits, make, execute, and deliver good and sufficient deeds of conveyance under the seal of the corporation for lands within the limits of the corporation, and which shall already have been granted, given or sold, or that may in future be granted, given or sold by said commission or commissioners acting hereafter within the limits of said grant; shall fix the time and place to hold their meetings; to provide for their elections of the corporation; to examine the returns of the same, and declare the result, and generally to do and perform all the acts and things necessary to be done to carry into effect the object of this act.

SEC. 3. All persons, owners of land within the limits of said corporation, shall be qualified to vote at all the elections of said corporation. Each qualified voter shall be entitled to one vote for each and every piece of land he may possess, and one vote for each fraction thereof that he possesses within the incorporated limits, and the person or persons who shall receive a majority of the number of votes cast for any office shall be declared elected to the same. No person shall be eligible to an election as commissioner, nor occupy said office, unless he is a qualified voter in the meaning of this act.

SEC. 4. The limits of said corporation shall be co-extensive with said Grant of Refugio.

SEC. 5. All suits of the corporation shall be conducted by the commission, in the name of the corporation; and in suits against the corporation service of process may be made on the president or secretary as in other cases.

SEC. 6. Any commissioner who shall voluntarily act in a corrupt manner in the discharge of his duties, such commissioner shall be removed from his office by the district judge in the same manner provided by law for the removal of justices of the peace.

SEC. 7. Leon Alvarez, Jesus Henriques, Juan Contreras, Ygnacio Orrantia, Francisco Lucero y Armijo, are hereby

appointed commissioners to act as such until their successors be elected and qualified at the election on the first Monday of the year 1885, and they shall proceed and have power and authority as if though they had been elected according to the provisions of this act.

SEC. 8. This act shall be in force from and after its passage.
[Translation.]

CHAPTER XCIV.

AN ACT TO AMEND THE CHARTER OF THE TOWN OF SILVER CITY
IN THE COUNTY OF GRANT. *Approved March 19, 1884.*

CONTENTS.

SECTION 1. Specifies amendments.

SEC. 2. Town marshal to be elected, how; shall give bond; shall deposit funds; compensation; penalty; vacancy, how filled.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. That an act entitled an act to incorporate the town of Silver City, in the county of Grant, approved February 15th, 1878, be and the same is hereby amended by adding to article one, section three, of said act the following words, to-wit: "And an owner of real estate in said town of Silver City," and in article four, section three, striking out the word "marshal," and in section five, of said article four, striking out all of the concluding sentence in the words and language as follows, to-wit: "But in no case shall the tax so imposed exceed ten dollars on one lot in any one year except by consent of the owner," and in article six, section one, strike out the word "appointed," and insert in lieu thereof the word "elected."

SEC. 2. *Be it further enacted*, that an additional article shall be added to said act to incorporate the town of Silver City, in the county of Grant, approved February 15, 1878, to be called article ten (10) in the words and figures as follows, to-wit:

ARTICLE X.

SECTION 1. There shall be voted for at the first regular election for municipal officers in the town of Silver City, succeeding the passage of this act, and each year thereafter, a town marshal, at the same time and in the same manner as is now provided for by law for the election of other town officers.

SEC. 2. The town marshal shall be required, before entering upon the discharge of the duties of his office, to execute to the town a good and sufficient bond in the penal sum of two thousand (\$2,000) dollars for the faithful discharge of his duties.

SEC. 3. In all cases where it is made the duty of the marshal of said town of Silver City to collect any special tax, he shall be required to furnish in addition to his official bond, such additional bond in such sum or sums as may be fixed by the town council.

SEC. 4. The town marshal in his capacity of collector shall deposit all funds collected by him with the town treasurer at least once a week, and as much oftener as the town council may direct.

SEC. 5. The marshal provided for in this act shall receive a compensation of one hundred and fifty (\$150) dollars per month, to be audited by the town council monthly, and it shall be unlawful for said town council to allow any other compensation or fees except such as are now provided for by law in section one, of article six, of an act entitled "An act to incorporate the town of Silver City."

SEC. 6. In case the town marshal elected under the provisions of this act shall fail to deposit with the town treasurer all moneys collected by him on account of the town of Silver City for a period of fifteen days, he may be removed from office by the town council; *Provided*, however, that no such removal shall take effect until after the charge against him shall have been sustained by the town council.

SEC. 7. In case the town marshal is removed from office, the town council shall appoint a successor to fill the vacancy so created until a successor is duly elected and qualified.

SEC. 8. This act shall take effect and be in force from and after its passage and approval.

CHAPTER XCV.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO AMEND THE CHARTER OF THE TOWN OF SILVER CITY, IN THE COUNTY OF GRANT," APPROVED FEBRUARY 10, 1882. *Approved March 11, 1884.*

CONTENTS.

SECTION 1. Changes rate of interest and terms of sale of bonds.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. That the words "bearing interest at the rate of twelve per cent. per annum" in section one, article nine, of the charter of the town of Silver City, shall be struck out and the following words substituted: "at a rate not to exceed eight (8) per cent. per annum;" also that the words "and shall not be sold or disposed of by said council at less than the face or par value thereof" be stricken out.

SEC. 2. This act shall take effect and be in force from and after its passage and approval.

CHAPTER XCVI.

AN ACT ESTABLISHING A FENCE LAW IN THE COUNTY OF LINCOLN, TERRITORY OF N. M. *Approved April 2, 1884.*

CONTENTS.

SECTION 1. Cultivated lands to be fenced, how.

SEC. 2. Watering places, entrances, gates; how managed.

SEC. 3. See text.

SEC. 4. Commissions, how formed.

SEC. 5. Qualifications and duties; responsibility for neglect.

SEC. 6. All cultivated lands to be fenced by January, 1886.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. That all owners of cultivatable lands in the county of Lincoln are hereby required and compelled to fence the fronts of the same with poles, stones, adobes, or wire fences. The fences so constructed shall be at least five feet high; they shall be made in a solid and substantial manner, so that the fields of said cultivated lands may not be damaged or injured by the animals of said county.

SEC. 2. On making such fences the owners of cultivated lands shall leave the watering places free, for the use of their animals; they shall also leave their entrances and exits free in their own lands for their own use, to take out their crops, and enter into their own lands for cultivation. Said entrances and exits shall be managed by good and consistent gates in such manner that the animals cannot break down such gates.

SEC. 3. That if fences so formed shall be broken down or destroyed by the neighbors' animals, the owners of said fences shall suffer the consequences of such destruction and injuries caused in their fields.

SEC. 4. That the justice of the peace of each precinct, in said county of Lincoln, where there are cultivated lands, shall call a public meeting of all the inhabitants of his precinct, who shall select a commission, composed of three persons, owners of land, which commission shall carefully examine if such fences are constructed in due form, according to the meaning and provisions of this act, and report to the justice of the peace of their precinct the result thereof.

SEC. 5. Each commission chosen for the purposes herein provided, before entering upon the discharge of their duties, shall be sworn and a certificate of their appointment shall be given them by the justice of the peace of their precinct, for the faithful discharge of their duties. If in the opinion of the commission, any fence should not be constructed according to the provisions of this act, they shall report the same to the justice of the peace of their precinct, who shall compel the owner or owners of such fences to construct them as herein provided, and if such owner or owners shall refuse to do so, he or them shall pay the injuries caused to his neighbors through his negligence in such case.

SEC. 6. That by the first Monday of January, A. D., 1886, all cultivated lands in the county of Lincoln shall be fenced in, according to the provisions of this act, and if any owner or owners of cultivated land shall not fence their own lands from that date forward, he shall suffer the consequences according to the meaning of this act.

SEC. 7. All laws inconsistent with this act are hereby repealed.

SEC. 8. This act shall be in force and effect from and after its passage.

[Translation.]

CHAPTER XCVII.

A SPECIAL ACT FOR PRECINCT NO. 5, OF THE COUNTY OF RIO ARRIBA, RELATIVE TO FENCES. *Approved March 31, 1884.*

CONTENTS.

SECTION 1. Fences to be built, how; aid to be given in certain cases.

SEC. 2. Side fences how regulated.

SEC. 3. Fence commissioners, how chosen.

SEC. 4. Powers of commissioners:

SEC. 5. Fences to be built, when.

SEC. 6. Penalty.

SEC. 7. Penalty against commissioners.

SEC. 8. Fines applied, how.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. That all the inhabitants of the towns of Truchas and Quemado, and all persons having ranches cultivated within the limits of said precinct be and by this act are hereby required and obligated to fence or repair the fences in front of the lands with a wooden, stone, adobe, or any other material to support said fence, five feet high, capable of preventing the entrance of animals through or over the same; *Provided*, that those having small pieces of land in the centre of the lines of

lands, and do not reach the place where the fence or fences shall be made, these shall be required and compelled by the commissioners to aid those whose lands reach the place where the fence or fences are to be constructed.

SEC. 2. That all those having their lands under the said fences in said precinct, shall fence the sides of said fences all in common in proportion to their lands, it being understood that all those having fenced their lands alone they shall not be compelled nor required to fence in common.

SEC. 3. There shall be three fence commissioners for Truchas, two for the fences of the Quemado, and one for Jollas fence, and another for the llano of the Jara fence, and such others as may be necessary, which shall be chosen by election held by the owners of lands under said fences, which election shall be proclaimed every year and presided over by the justice of the peace of said precinct, who shall give his certificate to the commissioner or commissioners, who shall [receive] the greater number of votes cast at said election.

SEC. 4. That the commissioners selected as provided in the foregoing section are by this act vested with full power to cause the construction of said fences within the time hereinafter provided, and that said fences are always kept in good order without any demerit at the corresponding places, which shall be done by those to whom it corresponds, be it either in common or in the fronts of the lands.

SEC. 5. The owners of lands are hereby notified, and it is made their duty to have the fences concluded by the last day of May of each year; *Provided*, that the commissioners to whom it belongs may determine that the fences be constructed in the lands of the persons who reside out of the county limits.

SEC. 6. That each and every one of the persons subject to construct fences, under the provision of the present act, who shall not construct their fences as hereby required, each one shall be fined a sum not less than one dollar nor more than five dollars, which shall be imposed by the justice of the peace of the precinct, on complaint and proof made by the commissioners, and shall be collected according to law.

SEC. 7. That if any of the commissioners of any of said fences shall refuse or fail in their duties, as required by this act, on complaint and charge of any person before a justice of the peace, he shall be fined in any sum not less than one dollar

nor more than ten dollars, which shall be collected as provided in the foregoing section of this act.

SEC. 8. That all the fines arising from infractions of this act shall be applied in the repair of said fences, where the commissioners or parties interested in the fences may determine.

SEC. 9. That all acts or parts of acts in conflict with this are hereby repealed, and this act shall take effect and be in force from and after its passage.

[Translation.]

CHAPTER XCVIII.

AN ACT REPEALING SECTION 2 OF AN ACT ENTITLED "AN ACT CONCERNING PUBLIC ROADS IN THE COUNTY OF RIO ARRIBA."
Approved March 1, 1884.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. That section second of an act concerning public roads in the county of Rio Arriba, approved February 4, 1882, is hereby repealed.

SEC. 2. That this act shall be in force and effect from and after its passage and approval.

[Translation.]

CHAPTER XCIX.

AN ACT RELATIVE TO THE DISTRIBUTION OF WATER AT THE OJO SARCO, COUNTY OF RIO ARRIBA. *Approved March 31, 1884.*

CONTENTS.

SECTION 1. Water declared public property; limits defined.

SEC. 2. Distribution, how controlled.

SEC. 3. Penalty.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. That from and after the passage of this act the water of the Ojo Sarco, the Ojo that rises on the margin of the public road that passes from Chimayo to the Rincones, be and by the present act is declared as the public property of the inhabitants of said places, to where it reaches and touches the lines of distribution established by the alcalde Juan de Jesus Cruz, constitutional alcalde at that time.

SEC. 2. That it being a small stream of water, and having already experienced difficulties heretofore, therefore the said water shall be distributed by the mayordomos of said acequias with all equality, and without preference being shown to any person, from the source of the course of said water until distribution above is reached as set forth in section first.

SEC. 3. That the said mayordomo of said acequias and peons, owners, or renters, or partitioners of said acequia or acequias, shall be liable to the same penalties prescribed and declared in the territorial laws on acequias in cases of failures or neglect.

SEC. 4. That all laws or acts of laws in conflict with the present act are and hereby shall be and remain repealed, and the present shall be in force from its passage and approval.

[Translation.]

CHAPTER C.

AN ACT TO REPEAL AN ACT CONCERNING IRRIGATION IN PRECINCT NO. NINE, IN THE COUNTY OF RIO ARRIBA, TERRITORY OF NEW MEXICO.
Approved March 27, 1884.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SEC. 1. That all and each of the sections of an act entitled an act concerning irrigation in precinct No. 9 of the county of Rio Arriba, Territory of New Mexico, approved February 4, 1882, hereby remain repealed.

SEC. 2. This act shall be in force and take effect from and after its passage and approval, and all laws or parts of laws in conflict with this act are hereby repealed.

[Translation.]

CHAPTER CL.

AN ACT AUTHORIZING THE BOARD OF COUNTY COMMISSIONERS OF SAN MIGUEL COUNTY TO ISSUE BONDS TO BUILD A COURT HOUSE AND JAIL AND TO LEGALIZE THEIR ACTS PERTAINING THERETO.
Approved March 20, 1884.

CONTENTS.

SECTION 1. Bonds authorized.

SEC. 2. Denomination; rate of interest; coupons.

SEC. 3. Tax levy and collection; specific fund.

SEC. 4. Interest payments; cancellation of coupons.

SEC. 5. Bonds and coupons, how signed; shall show what; limitations; penalty.

SEC. 6. Authority to contract; outstanding contracts legalized.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. The board of county commissioners of San Miguel county are hereby empowered to issue the bonds of the county for any sum necessary, not exceeding one hundred and twenty-five thousand dollars, for the purpose of building of a court house and jail in accordance with plans now in possession of the said board of county commissioners, and approved by them, for the building of said court house and jail.

SEC. 2. The bonds herein provided for shall be issued in sums of not less than one hundred dollars and payable ten years after date, and the bonds so issued to bear interest at the rate of ten per centum per annum, payable annually on the first day of January in each year, said bonds to be made payable at such place as the officers issuing the same may direct, and shall have interest coupons attached, and shall not be sold for less than their par value.

SEC. 3. The board of county commissioners aforesaid shall

levy each year, and cause to be collected as other taxes as are collected, a sufficient tax to pay the interest on said bonds as the same may become due, and when paid into the county treasury it shall remain a specific fund for the purpose only of the payment of the interest on said bonds.

SEC. 4. Whenever the interest on said bonds shall become due the same shall be paid out of any money in the county treasury collected for that purpose, and the coupons for interest so paid shall be taken up by the treasurer, cancelled and filed in his office.

SEC. 5. Said bonds and coupons shall be signed by the chairman of the board of county commissioners, and attested by the clerk of said county, and said clerk shall keep a register of the bonds thus issued in a book provided for that purpose, showing their dates, number, amount, to whom made payable, and rate of interest. Said bonds or the proceeds thereof shall not be used for any other purpose than that for which said bonds were issued, and any officer who shall apply the same to any other purpose shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than double the amount of the bonds so misapplied.

SEC. 6. The board of county commissioners are hereby authorized to enter into any contracts to carry into effect the provisions of this act, and all contracts that may have been made, and acts performed, site selected, bonds issued heretofore by said board of county commissioners pertaining to or for the building of said court house and jail, are hereby approved, confirmed, and made legal the same as if performed after the going into effect of the act, and the credit of the said county of San Miguel shall be hereby pledged for the payment of the contracts made and of the bonds issued, under the provisions of this act.

SEC. 7. This act shall take effect and be enforced from and after its passage.

CHAPTER CII.

AN ACT TO AMEND "AN ACT AUTHORIZING THE BOARD OF COUNTY COMMISSIONERS OF SAN MIGUEL COUNTY TO ISSUE BONDS TO BUILD A COURT HOUSE AND JAIL AND TO LEGALIZE THEIR ACTS PERTAINING THERETO," APPROVED MARCH 20, 1884. *Approved April 1, 1884.*

CONTENTS.

SECTION 1. Reduces bond issue.

SEC. 2. Provides for payment of principal.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. That section one of an act authorizing the board of county commissioners of San Miguel county to issue bonds to build a court house and jail and legalize their acts pertaining thereto, be amended as follows: The words "one hundred and twenty-five thousand" shall be so amended to read "one hundred thousand dollars."

SEC. 2. Section three shall be so amended by inserting the words "and principal" at the end of the last line after the words "the payment of the interest upon said bonds."

SEC. 3. All acts and parts of acts in conflict herewith are hereby repealed.

SEC. 4. This act shall take effect and be in force from and after its passage.

CHAPTER CIII.

AN ACT PROVIDING COMPENSATION FOR THE PROBATE JUDGE AND COMMISSIONERS OF THE COUNTY OF SAN MIGUEL FOR EXTRAORDINARY SERVICES RENDERED BY SAID OFFICIALS IN THE ERECTION OF PUBLIC BUILDINGS IN SAID COUNTY. *Approved April 3, 1884.*

CONTENTS.

SECTION 1. Per diem and mileage.

SEC. 2. To be paid out of county funds.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. That the actual county commissioners and judge of probate of the county of San Miguel, shall receive a further compensation to their salary now provided by law, the sum of five (\$5.00) dollars for each day that they may have necessarily spent, or they may have to spend necessarily in attending and superintending the extraordinary work that they may have rendered, or they have to be employed in the discharge of their duties touching the construction of the court house and jail for said county of San Miguel now in operation, and further the sum of ten cents for each mile coming from their place of residence to the county seat of said county, and the same sum in returning to their said place of residence, as mileage, at the special meetings of said board in relation to said buildings.

SEC. 2. That said sum, provided in the first section of this act, shall be paid to said officials out of the county funds of San Miguel, and not otherwise appropriated.

SEC. 3. That this act shall be in force from and after its passage, and all acts or parts of acts inconsistent with this act are hereby repealed.

[Translation.]

CHAPTER CIV.

A SPECIAL ACT FOR THE PURPOSE OF FINALLY SETTLING, DETERMINING AND LOCATING CERTAIN PUBLIC ROAD AT RINCON DEL TECOLOTE, IN THE COUNTY OF SAN MIGUEL. *Approved March 4, 1884.*

CONTENTS.

SECTION 1. Certain portions of road forever discontinued.

SEC. 2. Road declared recognized and established.

SEC. 3. Compensation for land, how paid.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. That such portions of the old public road, leading and running from and between the upper and the lower towns of Rincon del Tecolote, in Precincts Nos. 13 and 25 of the county of San Miguel, as have been declared discontinued by the present board of county commissioners of said county, be and the same are hereby declared to be forever discontinued.

SEC. 2. That the public road as declared established and recognized by the present board of county commissioners of said county, running from and between said upper and lower towns of Rincon del Tecolote, in Precincts Nos. 13 and 25 of San Miguel county, be and the same is hereby declared to be the recognized and established public road between said towns.

SEC. 3. That the sum of ten cents per yard be granted in full compensation for the land occupied by the new public road, referred to in the foregoing sections of this act, wherever the said public road runs through private lands, to be paid out of the funds of the said county of San Miguel, and the county commissioners of said county are hereby authorized and empowered to pay for the same on the proper showing being made before them by the proper parties.

SEC. 4. That this act shall take effect and be in full force from and after its passage and approval.

CHAPTER CV.

AN ACT REGULATING AND DEFINING THE LINES OF PRECINCT NO. 36, OF THE COUNTY OF SAN MIGUEL. *Approved March 21, 1884.*

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. That the limits of precinct No. 36, of the county of San Miguel, are and shall be defined as follows: on the south the house of Juan Vialpando, *inclusive*, thence in a direct line to the west to the mouth of the Rocillo, near the house of Juan

de Jaramillo, thence on the west side of said Cañada del Rocillo northwardly to the Cuchilla of the Rincon Bonito and the dividing line between the counties of San Miguel and Mora, thence following said dividing line to the Cuchilla of the Jará Cerros on the east, thence following said Cuchilla to the aforesaid line to the south at the point of commencement.

SEC. 2. That all laws and parts of laws in conflict with this act are hereby repealed, and this act shall be in force and effect from and after its passage.

[Translation.]

CHAPTER CVI.

A SPECIAL ACT FOR PRECINCTS NUMBER TWO, NUMBER THIRTY-ONE AND NUMBER THIRTY-SEVEN, OF SAN MIGUEL COUNTY. *Approved March 6, 1884.*

CONTENTS.

SECTION 1. Cultivated land to be fenced; fence described.

SEC. 2. Fences, how located.

SEC. 3. Election of Mayordomos; how conducted; duties; fencing to be completed, when.

SEC. 4. Penalties; fines, how applied.

SEC. 5. Labor shall be rendered, where.

SEC. 6. Commission to be elected; duties.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. That the inhabitants of precincts number 2, 31, and 37, of the county of San Miguel, are and by this act are compelled to construct in the fronts of their cultivated lands a good fence, not less than five feet high, of wood, adobes, stone, or wire.

SEC. 2. That the fence shall be on both sides of the Pecos river, from the limits of precinct number 31 on the west, to the limits of precinct number 37 on the east, which fences shall be constructed as aforesaid, leaving the principal ditches within the fence.

SEC. 3. That the justices of the peace of said precincts are hereby authorized, and it is made their duty that at the most

practicable time, each one of them, to call a meeting in their respective precincts for the election of one or more mayordomos and superintendents of fences, who shall be voted for by the owners of real estate and by every person or persons subject to work, who shall take and subscribe an oath that he will faithfully and impartially discharge the duties for which he was elected. The mayordomos appointed in accordance with this act shall give three days notice to the laborers subject to work on said fences, in their own precinct, of the time of commencing such work, by not less than five public written notices posted up in five different of the most public places in their precinct, and said work shall be completed within two years after the passage of this act unless otherwise determined by a majority of the persons in each precinct subject to perform such labor in a public meeting called by the mayordomos or justice of the peace of his respective precinct.

SEC. 4. That whenever any of the residents, owners of real estate, shall fail or refuse to fence their lands as aforesaid, he shall be considered a violator of the law, and on conviction thereof by any justice of the peace of the county of San Miguel, he suffer a fine of not less than five dollars nor more than ten dollars, which fines shall be applied for purposes and excavations of the fences in their reconstruction.

SEC. 5. That the inhabitants, whose cultivated lands are within the margin of cultivated land, shall be compelled to perform labor wherever the public convenience may require, or wherever it belong to the public; *Provided further*, that the inhabitants who reside within the limits of said precincts shall be compelled to render their labor at the places that generally pertain to the public.

SEC. 6. That a commission of two persons in each precinct, of known honesty and owners of real estate, shall be elected by a majority of the inhabitants of each respective precinct, to designate and locate places for convenient and secure outlets for the drawing of crops and watering places that may be necessary for the convenience of the inhabitants of said precincts.

SEC. 7. That all laws or parts of laws in conflict with this are hereby repealed, and the same shall be in force from and after its passage and approval.

[Translation.]

CHAPTER CVII.

AN ACT TO ABOLISH PRECINCT NO. 21, SAN MIGUEL COUNTY.
Approved April 3, 1884.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. That precinct number twenty-one (21) of the county of San Miguel be and the same is hereby abolished, and is by this act consolidated with and made a part of precinct number seventeen (17) of said county.

SEC. 2. All acts or parts of acts in conflict herewith are hereby repealed, and this act shall take effect from the date of its passage.

CHAPTER CVIII.

AN ACT IN REFERENCE TO THE CONSTRUCTION OF FENCES IN PRECINCT NO. 8, OF THE COUNTY, OF SANTA FE. *Approved April 2, 1884.*

CONTENTS.

SECTION 1. Fence to be built, where.

SEC. 2. Expense, how distributed.

SEC. 3. Fence to be finished, when; penalty, how applied.

SEC. 4. Commission, duties.

SEC. 5. How elected; qualification of voters; conduct of elections.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION. 1. That it is made the duty of all owners of lands situate at the place known by the name of the Cadillal, precinct No. 8, of Santa Fé county, to put up a fence of substantial material in order to prevent the crops on said lands being damaged or injured by animals that may be kept under the care of herders by their owners.

SEC. 2. It shall be the duty of each owner of land, as above mentioned in section first of this act, to fence at his own expense and cost, that is to say, on the north and south sides, and the east and west sides, to the limits of said lands, shall be at the cost of all the owners of lands, which by the intention of this act shall be fenced.

SEC. 3. That the aforementioned fences shall be finished within one year after the approval of this law, which shall be at least five feet high, and all the owners of lands, who shall fail to comply with this duty as specified by this act shall be liable to a suit of misdemeanor, which may be brought by any person interested, before the justice of the peace of the precinct, who shall on proof of their guilt be fined one dollar for each day he may fail to conclude the fence which by this act it is his duty to construct, which fines shall be enforced as other fines for misdemeanors as provided by law, and the same shall be applied in the repair of the aforementioned fences in future.

SEC. 4. That a commission of three persons shall be selected by the [owners of] said cultivated lands, to receive and see that the fences be constructed as provided in this act; also, that in future, they may require the respective owners to repair the same when necessary in case there be no funds arising from fines for infractions of this act, which fines shall be delivered over by the justice of the peace for such purposes.

SEC. 5. The said commissioners shall be elected at an election to be called by the justice of the peace of the precinct on the first Monday of May of the present year, and only the owners of land situate at said place shall have the right to vote, and the commissioners shall hold their office for one year from the date of their election, which election shall be conducted and presided over by said justice of the peace in the most proper and satisfactory manner for the parties interested, notifying them as far as possible of the day and place of holding the election.

SEC. 6. That this act shall be in full force and effect from and after its passage.

[Translation.]

CHAPTER CIX.

AN ACT CREATING AND ORGANIZING THE COUNTY OF SIERRA.

Approved April 3, 1884.

CONTENTS.

- SECTION 1. Defines boundaries; proviso.
SEC. 2. Election of officers, how to be called.
SEC. 3. Locates county seat.
SEC. 4. Erection of buildings, how provided.
SEC. 5. Bonds authorized; denominations, interest, rate and terms; tax levy and collection, receivable for taxes.
SEC. 6. Official bonds, how approved; precincts established, how.
SEC. 7. Assignment for judicial purposes.
SEC. 8. Apportionment of indebtedness.
SEC. 9. Assignment for representation in Legislative Assembly.
SEC. 10. District Courts to be held, when; term of.

*Be it enacted by the Legislative Assembly of the Territory of
New Mexico.*

SECTION 1. That all part of said Territory comprised within the following boundaries and limits, to-wit: commencing at the Mule Springs, in Mule Pass, in Cook's Cañon range, in the county of Grant, and running thence in a north-westernly direction along the summit of the Mimbres Mountains to the north boundary line of Grant county; thence west on said north boundary line to the one hundred and eighth degree of longitude west of Greenwich; thence north on said degree of longitude to the point where the same intersects the north line of township line ten (10), south of New Mexico (being along the north line of township ten (10) south, range 11 west of the meridian of New Mexico); thence east on said township line to the principal meridian of New Mexico; thence south on said principal meridian to the south line of township seventeen (17), south of the United States survey; thence west along said south line of said township No. seventeen south to the south-west corner of range four (4) west, New Mexico principal meridian; thence south on the west line of said range line No. 4 west of said principal meridian, New Mexico, to the south-west corner of township No. 19 south, of range 4 west, New Mexico; thence west along the south line of township No. 19 south, to the south-west corner of township 19 south, range 7 west, New

Mexico principal meridian; thence west, north-west to the place of beginning on said south line to the boundary line of Grant county, shall form and constitute a new county to be known as and called "Sierra county;" *Provided*, that the property thus separated from the county of Socorro shall not be exempt from its share of taxation to pay the outstanding bonded indebtedness of Socorro county.

SEC. 2. *Be it further enacted*, that within ten days after the passage of this act the Governor of the Territory call an election, to be held within thirty days thereafter, for the election by the people of said county of a full corps of officers in accordance with existing laws relating to counties of this Territory, and who shall be entitled to assume the duties of their respective offices upon complying with the requirements of law now in force in regard to the county officers of other counties of this Territory, and who shall hold their respective offices until their successors shall be elected at the next general election in this Territory, and shall qualify for their respective offices as is now provided by law.

SEC. 3. *Be it further enacted*, that the county seat of said county of Sierra be and the same is hereby permanently located and established at the town of Hillsborough in said county of Sierra.

SEC. 4. *Be it further enacted*, that the board of county commissioners of said county of Sierra, as soon as they shall have been appointed and shall have qualified as provided for in section two of this act, is hereby authorized and required forthwith to purchase or erect a court house and jail buildings, and to purchase such suitable site therefor in the town of Hillsborough as said board shall select. The building intended for the court house to be also provided with rooms suitable for all county officers, and to be of such plan as may be approved by said board of county commissioners.

SEC. 5. *Be it further enacted*, that for the purpose of erecting or purchasing the buildings and building site provided for in section four of this act, the said board of county commissioners of said county of Sierra are hereby authorized and empowered to issue bonds of said county to the amount of not to exceed twenty thousand (20,000) dollars, to run for the period of fifteen years, but payable at the option of said county after the expiration of five years; said bonds to be in the usual form and in sums of one hundred dollars each, bearing interest

at the rate of six per centum per annum until paid, interest to be paid annually. And said board is required annually, when other taxes are levied, to levy a tax upon the assessed property of said county sufficient to pay said interest, and such portion of the principal as shall be necessary to pay such bonds at maturity, or sooner if it be elected so to do as herein provided; said bonds and interest coupons to be receivable from any person holding the same in payment of county taxes, licenses, and demands due said county.

SEC. 6. *Be it further enacted*, that the board of county commissioners of said county, within thirty days after they shall have been appointed, and shall have qualified as provided in section two of this act, shall hold a meeting of said board at the county seat of said county, and shall examine and inquire into the sufficiency of official bonds given or to be given by any county or precinct officer as is required by law in other counties of this Territory, and at said meeting, or as soon thereafter as may be, shall set off and organize as many election and judicial precincts in said county as they shall deem necessary and proper, and shall perform all the duties required by law of like boards of county commissioners in other counties of this Territory.

SEC. 7. *Be it further enacted*, that for judicial purposes the said county of Sierra shall be attached to and form a part of the Third Judicial District of the Territory of New Mexico.

SEC. 8. The indebtedness of the counties of Grant and Doña Ana shall be apportioned on the basis of the last assessment with said county of Sierra, in proportion to the amount of taxable property taken from each of said counties.

SEC. 9. Said county for the purpose of representation in the Legislative Council shall be attached to the council district composed of the counties of Doña Ana, Grant and Lincoln, and for the House of Representatives to the county of Grant.

SEC. 10. District Court shall commence and be held in said county on the first Monday of April and second Monday of November, and continue not more than two weeks.

This act shall be in force and effect from and after its passage.

CHAPTER CX.

A SPECIAL ACT FOR COUNTY OF TAOS. *Approved April 1, 1884.*

CONTENTS.

SECTION 1. Governor to appoint committee of three.

SEC. 2. Examination of accounts and papers.

SEC. 3. Reference to District Court; powers of.

SEC. 4. Books to be posted and closed.

SEC. 5. Notice by commissioners; warrants to be securely kept.

SEC. 6. Duties of commissioners.

WHEREAS, certain doubts exist among the inhabitants of the county of Taos relative to the legality of the actual debt of said county, funded and floating; and,

WHEREAS, there are good reasons to believe that a certain man, who was a deputy clerk in said county in 1881-2, illegally and through fraud, and without the authority of the commissioners, caused an enormous debt to the county of Taos, amounting to the sum of \$17,600.00 of funded debt, and the sum of \$793.85 floating debt; now, therefore,

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. That the Governor of the Territory be and he is hereby authorized to appoint a committee of three persons, disinterested, who shall not be holders of warrants of said county, to investigate the mode and manner in which such debt was caused in the county of Taos.

SEC. 2. That it shall be the duty of said commission to investigate and examine all the accounts and their vouchers which justify the approval of such accounts, identifying the person to whom they were approved, and by whom, and for what consideration or for what service rendered to the county, and said commission is authorized and empowered to examine witnesses, and papers, and books of the county, for the purpose of ascertaining the legality of such accounts, now apparently owed by the county.

SEC. 3. That when said commission shall have discharged its duties it shall make a full report of its investigation to the Judge of the First Judicial District Court of New Mexico, in

vacation or in open court. Said judge in a summary manner, shall examine said report, and if he shall find that a part of such debt is illegal or unjust, he shall immediately order, in the absence of sufficient vouchers, that the sum of money thus found to be deducted from the debt, be cancelled and obliterated as if said sum thus found erroneous had never existed, and the same shall not be recognized nor paid by the people of said county of Taos, neither principal nor interest.

SEC. 4. That the books of accounts kept since 1861 to 1876, by the judges of probate of said county, shall be posted and closed by the county commissioners.

SEC. 5. That to execute such posting, the commissioners of said county shall notify the people that within ninety days from the date of such notice, every person or persons having in their possession warrants issued within the time above specified to present them to the clerk of the probate court who shall keep them securely.

SEC. 6. That at the end of the ninety days the commissioners shall meet in special session for the purpose of examining the books specified in section 4 of this act, and such warrants as shall have been presented to the clerk, and after a careful investigation thereof, they shall regulate and close such books; *Provided*, that if it should be proven to the satisfaction of the commissioners that any warrants thus funded shall be legal, they shall recognize them, but in all cases such books shall be finally posted and closed and sealed in order to prevent fraud in future.

SEC. 7. That all acts or parts of acts in conflict with this act are repealed and this act shall be in force from and after its passage.

[Translation.]

CHAPTER CXI.

AN ACT AMENDING AND ESTABLISHING THE SOUTHERN LINE OF PRECINCT NO 1, OF THE COUNTY OF VALENCIA, TERRITORY OF NEW MEXICO. *Approved March 12, 1884.*

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. That the southern line of precinct No. 1, in the county of Valencia, and Territory of New Mexico, hereafter shall be established and recognized as follows: commencing at the north corner of the house of Domingo Castillo, and thence east of the place of beginning in a northerly direction to the house of Jaun Baca de Castillo and the Rio Grande del Norte, thence taking a westerly line to the northern line of the ranch of Juan Cristoval Chaves, following the entrance and exit of the Sausal. This line divides precinct No. 1, from precinct No. 2.

SEC. 2. That this act shall be in force from and after its passage, and all laws in conflict with this act are hereby repealed.
[Translation.]

CHAPTER CXII.

AN ACT FOR THE RELIEF OF FERNANDO NOLAN, MARGARITO ROMERO, JOSE SANTOS ESQUIBEL. *Approved March 25th, 1884.*

WHEREAS, Fernando Nolan, Margarito Romero, José Santos Esquibel, Francisco Baca y Sandoval and Demetrio Perez, as securities of Francisco Nolan, signed and executed a bond in the sum of ten thousand dollars conditioned for the appearance of Francisco Nolan before the District Court for the county of Mora on the fourth Monday of March, 1883, to answer unto an indictment for murder pending in said court and remain in attendance on said court from day to day, and term to term, etc.; and,

WHEREAS, said Francisco Nolan appeared before said District Court for the county of Mora on the said fourth Monday of March, A. D., 1883, in obedience to the conditions of said bond, and there remained from day to day until the conclusion of said term of said court and until his case was continued by order of said court; and,

WHEREAS, it is also equally certain that the said Francisco

Nolan for having failed to appear before said District Court for the county of Mora on the fourth Monday of August, A. D., 1883, according to the [conditions] of the said bond.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION. 1. That the securities in said bond be and are hereby relieved and discharged from all responsibility and obligation in and on account of said bond.

SEC. 2. The Attorney General is hereby directed and required to dismiss all proceedings, to consummate or enforce the forfeiture of said bond, to recover the penalty of the same or enter satisfaction of sentence, and shall cause to be made whatever shall be necessary for the relief and discharge of said securities.

SEC. 3. This act shall be in force from and after its passage.
[Translation.]

CHAPTER CXIII.

AN ACT FOR THE RELIEF OF LORENZO LABADIE. *Approved March 29th, 1884.*

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. That Lorenzo Labadie, former sheriff of the county of San Miguel, be and he hereby is relieved from the payment of a certain judgment rendered against him and others, and in favor of the Territory of New Mexico, at the August term, 1876, of the District Court within and for said county of San Miguel, and from any and all responsibility to the Territory of New Mexico and to the county of San Miguel, upon his bond, as collector of said county.

SEC. 2. That this act shall be in force from and after its passage.

CHAPTER CXIV.

AN ACT TO AUTHORIZE MARIA DE JESUS TRUJILLO DE ARCHULETA, WIDOW OF THE LATE DIEGO ARCHULETA, TO SETTLE UP AND REGULATE HIS ESTATE AS HIS ADMINISTRATRIX.
Approved April 3, 1884.

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. Maria de Jesus Trujillo de Archuleta is hereby nominated, designated, and appointed administratrix of the estate, goods, effects, chattels, and credits, which were of Diego Archuleta, deceased, and authorized to collect, receive, and receipt for debts due said estate, especially the amount due the late Diego Archuleta by the government of the United States for the mileage and per diem due him up to the time of his death as a member of this Legislative Assembly, and she is hereby released from giving the bonds required by law as such administratrix.

This act shall be in force and effect from and after its passage.

CHAPTER CXV.

AN ACT DECLARING THE ADOPTION OF ESTANISLADO MONTOYA.
Approved March 21, 1884.

WHEREAS, Juan Trujillo and Ana Maria Forjardo de Trujillo, wish that Estanislado Montoya, a youth of fifteen years of age, be declared to be their son and heir to them of their property; therefore,

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. That Estanislado Montoya, legitimate son of

Tranquilino Montoya and Maria Trujillo de Montoya, be hereby declared the legitimate adopted son and heir of Juan Trujillo and Ana Maria Farjardo de Trujillo, and so be known in future.

SEC. 2. All laws or parts of laws that may be inconsistent with this act remain hereby repealed.

SEC. 3. This act shall be in force and effect from and after its passage.

[Translation.]

CHAPTER CXVI.

AN ACT FOR THE ADOPTION OF JUAN TRUJILLO. *Approved April 1, 1884.*

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION. 1. That Juan Trujillo, son of Maria Encarnacion Jaques, of Vallecitos of Lovato, county of Rio Arriba, is hereby declared the adopted son of Antonio Trujillo and Maria Dolores Martinez, also of the Vallecito, county of Rio Arriba.

SEC. 2. The said Antonio Trujillo and his wife, Maria Dolores Martinez, hereby recognize the said Juan Trujillo as their sole heir; *Provided*, that the said Antonio Trujillo and his said wife may assign in their will the effects, property, or animals that they desire to leave to any other person or persons other than the said Juan Trujillo.

SEC. 3. That the said Juan Trujillo shall not have the right to any property, effects, or animals belonging to the said Antonio Trujillo and Maria Dolores Martinez, his wife, until both the said Antonio Trujillo and his said wife, Maria Dolores Martinez, shall have died; said Juan Trujillo nevertheless remaining entitled to receive any inheritance that may be assigned to him in the will of the husband or wife herein mentioned.

SEC. 4. After the death of the said Antonio Trujillo and

Maria Dolores Martinez, it shall be the duty of the said Juan Trujillo to pay all the expenses incurred in the sickness, attendance, funerals, and masses of the said Antonio Trujillo, or his wife, as the case may be, and to pay all legal claims against the estate of the aforesaid Antonio Trujillo and his wife, as also to demand as absolute owner all debts due from any person or persons to said estate after the death of both consorts.

SEC. 5. This act shall be in force from and after its passage and approval, and all laws or parts of laws in conflict with the provisions of this act are hereby repealed.

[Translation.]

CHAPTER CXVII.

AN ACT DECLARING THE ADOPTION OF ROSITA FILLMORE. *Approved March 21, 1884.*

WHEREAS, William H. Bowden desires that Rosita Fillmore, a little girl six years old, be declared to be his daughter and heir to his property; therefore,

Be it enacted by the Legislative Assembly of the Territory of New Mexico.

SECTION 1. That Rosita Fillmore be and she is hereby declared the legitimate daughter and heir of William H. Bowden, and in future she shall be so recognized.

SEC. 2. All laws or parts of laws inconsistent with this act are hereby repealed.

SEC. 3. This act shall be in force and effect from and after its approval.

MEMORIAL.

No. I.

ASKING THAT UNJUST DISCRIMINATION IN SUPPLYING FORAGE FOR MILITARY POSTS IN THE TERRITORY OF NEW MEXICO BE REMOVED. *Approved April 1, 1884.*

To the Senate and House of Representatives of the United States of America in Congress assembled:

Your memorialists, the Legislative Assembly of the Territory of New Mexico, respectfully represent:

That since the occupation and annexation of this Territory, and until lately, the Government has purchased from our people forage required for the feeding of the public animals used by the army stationed in this district.

That on April 2d, 1883, the chief quartermaster of this district invited proposals for forage required in the district, and agreeable thereto bids were submitted.

That these bids were forwarded to the proper officers of the army of the department of the Missouri, at Fort Leavenworth, Kansas, for their action, and that the recommendations of the officers of the army of the district of New Mexico were set aside, and the bids of our people, although the lowest, and made in competition with dealers in the State of Kansas, were arbitrarily set aside and every one rejected, assigning as a reason "that corn, oats, and hay can be purchased more advantageously under contracts made by the chief quartermaster department of the Missouri, for delivery in Kansas," which assertion is untrue, as will be shown hereafter.

That since June 30, 1883, no forage has been purchased from the people of this Territory under the above ruling, and in consequence thereof our trade and business of every kind has come to a standstill. The farmer has no opportunity to dispose of any of his produce, and the cultivation of the cereal crops has fallen to almost nothing.

The plan followed by the officers of the department of the Missouri was in this wise: After receiving bids from the

people of this Territory for supplies, and rejecting them in toto, enormous quantities of grain and hay were purchased from favored individuals in the State of Kansas, to be delivered by them at some point on the railroad in said State, when it was taken possession of by the officers of the army and transported at enormous expense and long distance to the different military posts, the total cost to the government being in every case far greater than the people of our Territory offered to deliver the supplies, and the saving (?) was figured in this wise by the officers of the army stationed at Fort Leavenworth, Kansas: that as a ton of hay in the State of Kansas cost \$6.00 to the appropriation of "regular supplies," made for the support of the army, and would cost *more* than that if delivered under bids made by our people, therefore by using money appropriated for "transportation of the army" to carry this hay to the military post, the hay *only* cost \$6.00, as that was the amount to be charged to the appropriation made for the purpose of paying for forage; so by said illegal and unwarranted use of money appropriated for a specific and different purpose the officers of the army stationed at Fort Leavenworth, Kansas, have deprived our people of all part or share in the patronage of the government in this Territory.

The case of hay for Fort Stanton, N. M., is an illustration.

Residents offered to deliver hay at \$45 or less per ton. The officers of the army stationed at Fort Leavenworth, Kansas, have been supplying the hay from Kansas at a cost to the government of fifty-eight dollars and twenty-four cents per ton for freight alone, leaving out the original cost of the hay.

Your memorialists further assert that the officers of the army stationed at Fort Leavenworth, Kansas, have arbitrarily refused during the past three years to receive our corn grown from American seed, for what reason we are unable to state.

This corn is the equal of any grown in the State of Kansas or elsewhere, is more nutritious and is cheaper.

Our hay has no equal on the continent, and even at its worst is far superior to the prairie grass of Kansas, which is being furnished by the officers of the army stationed at Fort Leavenworth, Kansas, for use at military posts in this district.

Your memorialists only ask that our people shall be fairly dealt with, and that when their bids are the lowest their produce shall be purchased, and we pray that such action may

be taken by your honorable body as will relieve them of the injustice complained of.

And your memorialists will ever pray.

MEMORIAL.

No. II.

ASKING THAT MILITARY DISTRICT BE CHANGED TO MILITARY DEPARTMENT OF NEW MEXICO WITH HEADQUARTERS AT SANTA FE. *Approved April 1, 1884.*

Memorial to the Honorable Robert T. Lincoln, Secretary of War, through General Phillip H. Sheridan, Commanding the United States Army, asking that the Military District of New Mexico be changed into a Department.

Your memorialists, the people of the Territory of New Mexico, through their representatives in the Twenty-sixth Legislative Assembly, would respectfully ask that the present military district of New Mexico be changed into a department with headquarters at Santa Fe, and for the following reasons:

The government buildings at Santa Fe are almost sufficient for the purpose of a department. That New Mexico is a frontier Territory as to the savage tribes and has a long border on the republic of Mexico, a good neighbor in time of peace but a strong enemy in time of war. That the present headquarters of the department is so far away that should a war break out among the Indians, which has been the case not long since, and a washout occur in the railroads, and interference with the telegraph, the people of the Territory would be left at the mercy of the foe, and the officers blamed for inactivity when they would be awaiting the orders of their superiors. That the facilities for transportation is [are] becoming as great in the Mexican republic as in our own country, and our headquarters should be as near the field of operation as possible.

That within this military district there are nearly 12,000 Indians, and some of them the most savage and warlike tribes in the United States. That the whole army of the United States consists of 25,000 men, divided into three divisions and eight departments. That this military district has one regiment of calvary and three regiments of infantry, aggregating a maximum strength of 2,445 men, and a present strength of nearly 2,350 men, with a great probability of an increase in the near future.

The department of Texas has two regiments of cavalry, two regiments of infantry, and one battery of artillery, and is considered one of the best departments in the United States, although it is garrisoned with only one battery of artillery more than this district is.

The department of Arizona has but two regiments of cavalry and one regiment of infantry, with a maximum strength of 2,220 men, 230 less than the district of New Mexico.

The department of Columbia has nine troops of cavalry, three batteries of artillery, and two regiments of infantry, with a maximum strength of 1,983 men, or 462 less than the district of New Mexico.

And your memorialists state further that the A. T. & S. F. Railroad company discriminates in freight rates against all native products of New Mexico, and in favor of Kansas and Colorado; that unjust discriminations are made by the officers in charge of the department at Fort Leavenworth as against this Territory and in favor of Kansas, so much so that producers of this district have of late failed almost entirely to obtain awards for bids and forage.

That in consequence of their failure to obtain awards, although their bids were as low and in many instances lower than Kansas bids, nearly two-thirds of the farms are not cultivated, and the farmers and ranchmen are suffering from this unjust discrimination in the railroads and awarding to Kansas bids for forage.

That for a great number of years, and in fact from the occupation in 1846-7 until 1880, to advent of railroads, New Mexico supplied the grain and hay for an army almost as large as the entire army of the United States now is, and to the perfect satisfaction of the war department. Then why not give her farmers at least an equal chance now to supply an army of 2,500 men. This is but an act of simple justice to the pro-

ducers of New Mexico, and a sound policy towards the general government. The department of this Territory was abolished in 1865 through unjust and unfair means, and against the wishes of the people. This Territory is entitled to have all favors due it, as it has for years suffered from outbreaks of savage Indians and invaders from the adjoining republic, and bad character from all other States. But through all these trials for nearly forty years she has remained true to the general government, battling all this time with great odds against her.

Your memorialists therefore ask as a matter of right and justice to the citizens of New Mexico that the Territory now comprising the military district of New Mexico, be made into a department of the army.

That a copy of this memorial be signed by the Speaker of the House of Representatives, the President of the Council, and the Governor of the Territory, and be forwarded by the Secretary of the Territory, with his usual certificate, one to the Honorable Robert T. Lincoln, Secretary of War, and one to General Phillip H. Sheridan, commanding the United States Army.

MEMORIAL.

No. III.

ASKING APPOINTMENT OF A SPECIAL POSTOFFICE INSPECTOR
FOR NEW MEXICO. *Approved March 13, 1884.*

Your memorialist, the Council and House of Representatives of the Legislative Assembly of the Territory of New Mexico, respectfully represent that since the removal of the Postoffice Inspector for New Mexico, and assigning this Territory to the department of Colorado, mail depredations have greatly increased. It is impossible for the Inspector, whose headquarters are in the city of Denver, State of Colorado, over four hundred miles distant from the capital, to give this Terri-

tory the time and attention it deserves. The irregularities of the mail service are increasing daily, and the unsafe transmission of mail matter throughout the Territory is a great detriment to the business community and interests of the people.

We would therefore earnestly recommend the appointment of a special Postoffice Inspector for this Territory, who could give immediate and prompt attention to the mail irregularities which are so frequent, and the Secretary of the Territory be requested to transmit copies of this memorial to the Honorable Postmaster General and our Delegate in Congress.

MEMORIAL.

No. IV.

ASKING USE OF TWO ROOMS IN THE PALACE BUILDING FOR THE HISTORICAL SOCIETY. *Approved April 3, 1884.*

Joint Memorial to the Secretary of the Interior asking the use of two rooms in the palace building for the Historical Society.

WHEREAS, The Territorial Legislature of 1882 petitioned Congress that the use of the palace building in Santa Fe might be granted to the Historical Society of New Mexico for the display of its historical collection; and,

WHEREAS, Since that time said society has been placed on a firm basis by the appropriation of an annual sum from the territorial treasury; and the court which formerly occupied one of the easterly rooms in the palace has removed to other quarters; therefore,

Resolved, That we respectfully ask the Secretary of the Interior to allow said Historical Society to occupy the two easterly rooms in the palace building for the purpose of preserving and exhibiting its collections.

JOINT RESOLUTION.

No I.

ENDORSEMENT OF SAMUEL B. AXTELL, CHIEF JUSTICE OF
NEW MEXICO. *Approved April 3, 1884.*

WHEREAS, it has come to our knowledge that there has been presented to the House of Representatives, in Washington, a series of charges against our Chief Justice, S. B. Axtell, calculated to injure his character as a judge and as a man.

Be it resolved by the Legislative Assembly of the Territory of New Mexico in session assembled, That as the representatives of the people of the Territory at large, and especially of the people of the First Judicial District, we denounce any such charges as malicious, scandalous, and entirely false.

Resolved, That the conduct of Hon. S. B. Axtell, as a Chief Justice of the Territory of New Mexico, and Judge presiding of the First Judicial District, has been that of an honorable, upright, and impartial judge, whose honesty, ability and integrity cannot be attacked except by malicious, discontented, and designing men.

Resolved, That the best proof of the impartiality and good conscience with which Hon. S. B. Axtell performs his duties as a judge is clearly demonstrated by the official reports of the grand juries of the counties of Santa Fe, San Miguel, Mora, Colfax, Taos, and Rio Arriba, in which they show the high esteem and respect which the people of his district hold for him both as a judge and as a man.

Resolved, That copies of this resolution be sent to the President of the United States, President of the Senate, Speaker of the House, and Department of Justice, and other corresponding departments, by the Honorable Secretary of the Territory, whom we ask to comply with this our request.

JOINT RESOLUTION

No. II.

CREATES A JOINT COMMITTEE ON REVISION OF THE LAWS. *Approved February 21, 1884.*

Be it resolved by the Council and House of Representatives of the Legislative Assembly of the Territory of New Mexico.

That a joint committee on the revision of the laws, to consist of three members of the Council and three members of the House, be appointed by the respective presiding officers, and that such committee when appointed confer with the commission to revise the laws appointed in 1880, with the view of getting their work before this Assembly.

JOINT RESOLUTION.

No. III.

CREATES A JOINT COMMITTEE ON JOINT RULES. *Approved February 29, 1884.*

Resolved by the House of Representatives, the Council concurring therein.

That a committee of three on the part of the House, and two on the part of the Council, be appointed by the presiding officers of the respective bodies, whose duty it shall be to at once prepare and report joint rules for the government of the Legislative Assembly.

JOINT RESOLUTION.

No. IV.

AUTHORIZES CERTAIN DOCUMENTS RELATING TO ELECTIONS IN SANTA FE AND BERNALILLO COUNTIES TO BE TURNED OVER FOR USE OF UNITED STATES SENATE COMMITTEE. *Approved April 3, 1884.*

Joint Resolution of the Legislative Assembly of the Territory of New Mexico.

WHEREAS, Hon. Benj. Harrison, chairman of the United Senate Committee on Territories, having advised the Chief Executive of this Territory of the purpose of said committee to investigate the questions at issue in connection with the memorial of J. Francisco Chavez, and others, referred to said committee and having requested certain record evidence bearing upon the issues aforesaid,

Be it resolved therefore by the Legislative Assembly of the Territory of New Mexico, That the Secretary of this Territory be and he is hereby authorized and directed to turn over for the use of the United States Senate Committee aforesaid, all poll books of the several precincts of the counties of Bernalillo and Santa Fe of the election held in said counties on the 7th day of November, 1882, and all other record evidence concerning and touching said election in said counties now in his possession, and that the secretary make such provision for the return of all poll books and papers permitted to be taken out of his office in pursuance hereof as may to him seem proper.

JOINT RESOLUTION.

No. V.

REQUESTS THE GOVERNOR TO GRANT A PARDON TO JUAN LIONICIO ABEYTIA, OF THE COUNTY OF MORA.

Joint resolution of the Legislative Assembly of the Territory of New Mexico.

WHEREAS, One Juan Lionicio Abeytia, of Mora County, in this Territory, was at the March term, A. D., 1883, of the District Court for the county aforesaid, convicted of the crime of murder in the second degrees and sentenced to imprisonment in the penitentiary for the period of his natural life; and,

WHEREAS, The said Abeytia was hastily forced to trial in the absence of his attorney, whom he had employed to attend to his defense, and who understood that said cause was to be continued until a future term of court; and,

WHEREAS, Said Abeytia was compelled withing the space of twenty four hours from the time of the presentation of the indictment against him to employ another attorney, and get ready for his trial, and was tried within the space of forty-eight hours after the presentation of said indictment without being able to obtain his witnesses or have his regularly retained attorney to defend him; and,

WHEREAS If said Abeytia did do the killing charged against him it was done under very great excitement and the most aggravating circumstances, and while he was unconscious of the character of the deed; and,

WHEREAS, Said Juan Lionicio Abeytia was an honest, good, and respectable citizen of Mora county and had never before the acusation in this case brought against, charged with or been guilty of any illegal act; and,

WHEREAS, Said Abeytia, has a large family of small children who are entirely dependant and penniless and absolutely need the care and support of their father; and,

WHEREAS, The said Abeytia has now served the term of one year in the penitentiary at hard labor, and has been punished

sufficiently for any offense he may have committed; now therefore.

Be it resolved, That the Governor of this Territory be and he is hereby requested to interpose his pardoning power and grant to the said Juan Lionicio Abeytia a full. absolute, and and complete pardon from the offense of which he stands convicted, in order that he may return to his home and family and give them his protection, care, and support.

JOINT RESOLUTION.

No. VI.

RECALLING CERTAIN BILLS FROM SECRETARY'S OFFICE *Approved April 3, 1884.*

WHEREAS, House Bills seventy-eight and one hundred and twenty-four were tabled by the Council, March 31st, 1884; and,

WHEREAS, Said bills were inadvertantly signed by the presiding officers of both houses and presented to the Governor, who signed the same; therefore,

Be it resolved by the Legislative Assembly of the Territory of New Mexico. That House Bills number seventy-eight and one hundred and twenty-four be returned by the Secretary of the Territory of New Mexico to the President of the Council of the Twenty-sixth Legislative Assembly.

JOINT RESOLUTION.

No. VII.

DIRECTING THE PRINTING OF CERTAIN OFFICIAL REPORTS.
Approved March 7, 1884.

Be it resolved by the Council and House of Representatives

of the Territory of New Mexico, That there be printed five hundred copies in English and five hundred copies in Spanish of the reports of the Auditor, Treasurer, Adjutant General, and Librarian of the Territory, one-fourth of said copies to be for distribution by the Governor, and the other three-fourths to be distributed among the members of the two houses of the Legislature. Such printing to be done under the direction of the Committee on Printing of both houses.

Amended as follows: That 1,000 copies in English and Spanish be also printed of the report of the Bureau of Immigration.

TERRITORY OF NEW MEXICO, }
OFFICE OF THE SECRETARY OF THE TERRITORY. }

I, William G. Ritch, Secretary of the Territory of New Mexico, do hereby certify that I have compared the foregoing printed acts, memorial, and joint resolutions of the Twenty-sixth Session of the Legislative Assembly of the Territory of New Mexico, with the enrolled originals and original translations thereof, respectively, on file in my office, and that the same appear to be true and correct copies thereof.

IN WITNESS whereof I have hereunto set my
hand and affixed my official seal, June 1,
1884.



W. G. RITCH,
Secretary.

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